Theologia Moralis

Volume III
Book Three: On the Precepts of the Decalogue and of the Church

Bl. Alphonsus Maria de Liguori

(Beati Alphonsi Mariæ de Ligorio)

An English translation of the Latin edition
Mediolani (Monza): typis Lucæ Corbetta, 1827

Note on this translation. This English text was produced by a machine-assisted translation pipeline from an OCR transcription of the source Latin edition. The draft translation was made by a specialised translation model, assisted by a dedicated ecclesiastical-Latin knowledge base which supplied Douay–Rheims wording for Scripture quotations and verified place-names and terminology. It is an unofficial reading aid and has *not* undergone formal scholarly revision; occasional errors will remain, particularly in the dense citation apparatus. Marginal references of the form [*Latin ed. p. N*] indicate the corresponding page of the source edition, for alignment with the original scans. Blank leaves and unreadable pages have been omitted.

[*Latin ed. p. 9*]

BOOK THIRD, CONCERNING THE PRECEPTS OF THE DECALOGUE AND THE CHURCH. TREATISE FIRST, CONCERNING THE FIRST PRECEPT OF THE DECALOGUE. The essence of this precept, both in its affirmative and negative aspects, pertains to the acts of the virtue of religion. This virtue is a moral one, by which interior and exterior worship due to God is exhibited. Its internal act is the submission of the mind, by which we venerate the infinite excellence of God; its external act is that by which we testify to this interior disposition, such as prayer, sacrifice, etc., concerning which see Schol. 1, 2, and 3. As for its negative aspect, it prohibits vices opposed to religion; and because these vices are opposed to a virtue among the moral virtues, they are sins, and, after those committed against the theological virtues, are the most grievous and, by their very nature, mortal. They are twofold: some are opposed by excess, such as superstition with its various forms; others are opposed by defect, such as irreligion with its various forms. Therefore, from this virtue of religion, we are bound.

[*Latin ed. p. 10*]

Concerning prayer, which is defined in *Summa Theologica* 2-2, quaestio 83, article 1, as "a petition addressed to God," it is more probable that prayer is necessary for us by a necessity of means, as Suarez, Lessius, Laínez, Bona, Azorín, and others state in Salmanticensis, *Tractatus de Oratione*, treatise 21, chapter 5, number 11; St. Thomas, in the same place, against Silvestri, Ledo, Villalobos, and others, who hold that it is necessary by a command. However, when does the precept of prayer obligate? Salmanticensis, in the same place, number 29, with Trullius and Villalobos, against others, holds that it obligates intrinsically at three times: namely, in the present exercise of reason, at the hour of death, and at least once a year. It is said to obligate intrinsically, because it is certainly required by accident when a great temptation arises that cannot otherwise be overcome, or when a great calamity afflicts the people or a neighbor. Salmanticensis, in the cited place, number 15.

[*Latin ed. p. 11*]

CHAPTER I. ON SUPERSTITION AND ITS FORMS. FIRST QUESTION. WHAT IT IS AND IN HOW MANY WAYS IT OCCURS.

1. What is superstition?

2. In how many ways does superstition occur?

3. Who commits the sin of false worship?

4. What worship is superfluous?

1. *Response.* 1. Superstition is a false religion, or a corrupt worship of a true or false deity. It agrees with the common definition from St. Thomas, who says that it is a vice which is opposed to religion according to excess.

He says "excess," not that God can be worshipped too much or with greater honor than He deserves; but this is understood according to circumstances, namely, when you offer worship to one to whom you do not owe it, or in a manner in which you do not owe it, or to one to whom you do not owe it.

2. *Response.* 2. Superstition is twofold: one is the worship of something improper or incongruous, by which the true God is worshipped in an improper way, by offering Him false and harmful, or superfluous, worship, namely, worship that is contrary to or beyond the custom and prescription of the Church; the other is the error in the object of worship, when the worship due to God is offered to a false god or to a creature.

[*Latin ed. p. 12*]

This is divided into idolatry, divination, and vain observance; to which magic is either referred or, rather, constitutes a fourth species. Layman, book 4, treatise 10, chapter 1, from St. Thomas, question 92, article 2. From these, the following are resolved: 3. "1.º He commits the superstition of false worship: 1.º He who offers worship to God now through the ceremonies of the Old Law, for example, circumcision, the immolation of a lamb, etc.; because these signify Christ as yet to come and as not yet having come. 2.º A layman who worships God as a public minister of the Church, for example, by offering sacrifice, by absolving: which Suarez teaches to always be mortal, *de rel.* book 2, on superstition, chapter 2. 3.º He who, by his authority, proposes certain things to be done, as if ordered by the Church for the worship of God. 4.º He who proposes false relics, or claims that a miracle has been performed through some image, or that he has had these or those revelations, either to make a profit or to increase devotion. 5.º He who, to move the people, fabricates some miracle or claims to have found some history in Holy Scripture, etc. And this superstition, although of its kind it is mortal, because it does injury to the first truth and founds religion on lies, is often excused by ignorance or simplicity. Lessius, book 1, chapter 43, Sanchez, 2 moral, chapter 37, Navarrus, chapter 12, Layman, *loc. cit.*, Bona, part 3, question 5, paragraph 1."

[*Latin ed. p. 13*]

4. 2.º Superstitiones sunt cultus superflui, exempli gratia: 1.º Ceremonia audiendi Missam ante ortum solis cum certo numero, situ, ordine cereorum vel sacerdote qui dicatur Joannes vel qui habeat staturam Christi, etc.; quia hic cultus est ex se ipso inanis et ad spiritum excitandum inutilis. 2.º Jejunare die dominico, eum non jejunas aliis diebus. (Quamvis, ex cap. Sacerdos 26. q., vetetur jejunare in die dominico, ad extirpandam hæresin Manichæorum negantium resurrectionem Christi Domini: qui tamen mortificationis causa jejunaret, non peccaret, ne leviter quidem, ut ait Viva 1 lib. 2. quæst. 2. art. 1. num. 3.; imo mereretur, cum talem hæresin jam ecclesia aboleverit: etsi Salmant. tract. 21. cap. 11. num. 8. dicant melius

esse abstinere a tali jejunio, et ideo comuniter docere DD. quod jejunium promissum in die dominico possit in sabbato adimpleri, et si quis voverit jejunare per mensem non teneri in die dominico, nisi expresse intenderit.) Item in Missa, contrarium rubrice, plures formare cruces, pluries dicere alleluia, dicere Gloria vel Credo contra rubricas, aliasque ceremonias demere vel addere (etsi fiant ex devotione, hæc enim corrigenda est), quia sunt praeter ecclesiæ consuetudinem. Hæc tamen et similia, bona intentione facta, venialia tantum sunt.

[*Latin ed. p. 14*]

Ordinarily, as teaches Tollet, *Less. loc. cit.*, that is, Navar and Laym, because it is a light matter and the action itself is not inherently evil, and much is excused by simplicity. However, if it were inherently evil, as if one were to offer stolen goods, or sing indecent things in the temple, or produce with the voice or organ a sound notably lascivious or inciting to impurity, this is almost a mortal sin, as Laym teaches, *loc. cit.*, from the commentary.

SECOND DOUBT. CONCERNING DIVINATION. WHAT IT IS AND HOW MANY KINDS THERE ARE.

5. What is divination?

6. There is one kind with an explicit invocation of a demon, and another with a tacit invocation.

7. Is it always a mortal sin to divine?

8. Resolution of cases. What should be thought concerning the divining rod?

9. Is it permissible to divine through dreams?

10. Is astrology permissible, and of what kind?

11. Is it permissible to use a divining lot?

5. "RESPONSE. I. o Divination is when someone, either tacitly or explicitly, invokes the aid of a demon, in order to know things that are happening or that will freely come to pass, or otherwise, things that are hidden and naturally unknown. If these things are such that only God can know, then tacit idolatry is involved, because divine worship is offered to the demon; if, however, they are things that a demon can naturally know (for..."

[*Latin ed. p. 15*]

"She can, through signs and other means, discern even the most hidden things, and also many human thoughts and future events; see Delga, book 4, chapter 2, question 2; Sanchez, 2nd moral, chapter 28), nevertheless, it is illicit, because it involves commerce with the sworn enemy of God, which implies a certain betrayal and apostasy from God, and perhaps even (as Suarez argues against the Valentinians), superstition. See Layman, chapter 3; Bona, page 3; St. Thomas, 2nd-2nd, question 5, article 2, number 6. "

"Response: Divination is twofold: one in which there is an invocation or explicit pact with a demon, and is generally called necromancy: as when a demon reveals secrets through oracles, trances, illusions, through the appearance of deceased persons or living men, or other signs in the air, water, fire, or mirrors. The other is in which there is only an invocation or tacit or interpretative pact, as when knowledge is sought through the features of the body, voices, the croaking of birds, and similar things through which demons are accustomed to intervene, to which those things are disproportionate: St. Thomas, question 95. Since various species of both kinds are rare, I omit them here, because, according to the more common opinion, they do not differ in kind, nor do they have a special malice, and therefore it is not necessary to explain in confession whether, for example, divination was performed through mirrors, air, a deceased person, etc.; however, it must necessarily be expressed..."

[*Latin ed. p. 16*]

It is a question of whether the invocation or pact has occurred expressly, or tacitly; for, whether these differ morally in species or not, they notably alter the judgment of the confessor. (Better, because an express invocation often has attached to it other sins, namely heresy, the adoration of demons, etc. Furthermore, it is probable that there is no obligation to explain this, as stated in Psalm 138, tractate 21, chapter 11, paragraphs 29 and 30, with Victor. See Laym. in loco, Sanch. in loco, Less. in loco, disputation 5, Del. lib. 4, chapter 2, Bonac. q. 5, paragraph 4.) Divination through an express invocation of a demon is called an oracle; if it is done through idols, it is specifically necromancy, if it is done through the apparent resuscitation of the dead; for generally, necromancy includes other species of divination as well: oneiromancy, if through dreams; prestidigitation, if through fabricated figures; haruspicy, if through signs in the entrails of animals; geomancy, if through a figure in the earth; hydromancy, if through a figure in water; aeromancy, in the air; pyromancy, in fire. Through a tacit invocation, it is called astrology, if it is done through the positions and movements of the stars; auspices, through the signs of birds; augury, through the signs of animals; omen, if it is done by chance, for example, by the occurrence of a funeral procession, etc.; sortilege, if it is done by lot, for example, from the opening of a book, the casting of dice.

[*Latin ed. p. 17*]

7. "Responsio. Tertio loco, divinatio quae fit per actum expressum et daemon expresse invocatur, non potest ab homine mortali excusari; sed illa quae fit per actum tantum implicitum, alii affirmant quod aliquando potest ab homine mortali excusari, scilicet tunc cum vel intercedit simplicitas et ignorantia non crassa, neque affectata, vel fides certa non adhibetur, sed tantum timor quidem aut suspicio concipitur eventus futuri (Layam, lib.

4, tract. 10, cap. 3; Sanch., Less., Suar., Cajet., Bald., tract. 3, lib. 4, d. 3, num. 2, etc.), eo quod tunc superstitiosa vere non sit, cum intentio non sit talis. Vide Suar., Less., Sanch., Layam, Cajet., Nav., Sayr., Valent., et Tan., d. 5, de rel., quæst. 7, disp. 1, num. 21, et dub. 2, num. 25. Ex dictis resolvuntur sequentes casus: 8. "Primo loco, censetur expresse invocare seu convenire et pactum facere cum daemon, qui vel verbis daemonem invocat, vel saltem facto aliquid usurpat per quod scit aut putat daemonem cooperari." Secundo loco, is vero tacite paciscitur, qui mediis vanis et naturaliter improportionatis utitur ad aliquid cognoscendum vel efficiendum. Neque requiritur ut daemon aliquando pactus sit se ad talis vani medii adhibitionem concursurum; eo enim ipso quo quis vanitatibus iis utitur, daemon se immiscet, licet præter."

[*Latin ed. p. 18*]

The intention of the user should be to invoke God, as taught by Suarez, Lessius, and Sanchez, II, cap. 3.

3. He is not excused from sin who, using such things which are evidently naturally disproportionate, protests that he intends no commerce with a demon, because in fact he acts contrary to his protestation. For neither God nor the good angels mingle with such things; therefore, the demon is implicitly invoked, as the aforementioned authors, Laym. and Bon., II, cap. 3, teach.

4. Nor is he excused who believes that such means are useful because of experiences; for the demon seeks to gradually deceive men and induce them to use similar things. See Sanchez, 2, moral, cap. 38. (With Viva, loc. cit., no. 3.)

You ask what should be thought concerning the forked rod called the divining rod, which some use in its turning to find hidden treasures in the earth, veins of water or metals, relocated boundaries of fields, and especially thieves and murderers. Some doctors and even theologians have attempted to prove the use of this rod to be natural and innocent; but it is rightly condemned by Cont. Tourn., vol. 2, page 268, along with P. Malebr., P. Lebrun, and others.

Reason 1: Because if such a rod moves and turns naturally in the hand of a man, the intention can contribute nothing to the movement; yet the rod remains unmoved in...

[*Latin ed. p. 19*]

"Among those who protested, refusing to engage in anything superstitious, as Father Lebrun recounts with numerous examples, the phenomenon began to manifest in others who had made no prior protestation. Reason 2: A stone placed as a boundary marker for a field differs in no material way from any other stone; therefore, it is impossible that a rod should naturally move towards the first stone and not towards

the second. Reason 3: That which acts physically cannot be directed by the intention of a man to act or not to act, but, placed in the same circumstances, acts in the same way; whereas, the divining rod moves according to the mind of the one holding it, so that if he seeks metals, and not water, the rod does not move when water is found, but only when metals are found, and conversely. It is therefore clear that such a movement cannot be natural. 5. If anyone is so dependent on the stars, dreams, or similar things that he wishes to regulate almost all of his actions and his life according to them, then, according to Lessius, Suarez, and Sanchez, he is mortally sinning, citing the aforementioned passages (Idem Sahm, chapter 11, paragraph 64, with Navarrus, Trullius, and Palearius). 6. From the observation of such things, to once or repeatedly omit something to which one would otherwise be subject under mortal sin, is considered to be only venial, according to Cajetan and Arminius (see Sonnino); and also, to lightly fear that it may be so or that it may happen as they foretell, as Suarez notes in the aforementioned passage."

[*Latin ed. p. 20*]

"Thus it is cited (Likewise, the Doctors of the Church say in Psalm 11, verse 64). 9. It is asked whether divining the future through dreams is always illicit. It is answered: if the dreams are certainly or probably from God, we can, indeed we are obligated, to believe them, since God has sometimes promised to speak through dreams, as in Numbers 11: "I will speak to him in a dream." Thus, Psalm 11, verse 60, with St. Thomas, St. Gregory of Nyssa, Suarez, Lessius, etc. Conversely, it would be a grave sin to believe in diabolical dreams, as in chapter 26, question 5, of the *Episcoporum*, Psalm 66, with Layman, Lessius, etc. However, sometimes a simple person can be excused from mortal sin due to simplicity, or because he only believes them slightly, as is well noted by Ancl, treatise 5, division 2, number 22, and Bus, shortly thereafter. What is to be done when there is doubt whether the dreams are from God or from a demon? Answer: if it is not certain or probable that the dreams are from God, it is not permissible to believe them; thus, Psalm 61, with Suarez, Lessius, Sanchez, Palotti, etc., and Spor, *de I. præc.*, number 19, from the commentary. The reason is that when God imputes dreams, He also makes the person certain or almost certain that they come from Him. As for the rule for discerning whether dreams are from God or from a demon, it should be observed whether the dream urges one to a good or evil or presumptuous action; also, whether after the dream, the person feels disturbed.

[*Latin ed. p. 21*]

less inclined to works of piety, or, on the contrary, eager and prompt: for then it may prudently be judged to be a dream sent by God. Thus Elbel, in the first part, number 491, and Anadón, in the cited place, number 23, from

the common opinions of the Doctors. Commonly, and in most similar cases where only a tacit agreement exists, the aforementioned Doctors teach that venial sin alone is committed; and consequently, the Doctors cited above, and those who will soon be cited, state that something of this nature usually intervenes, which excuses from mortal sin, such as, for example, if perfect faith is not employed. (Sanch., in the cited place, number 13; Cajetan, in the Summa of the Council of Trent, etc.). However, Delrio rightly notes that it is always a very dangerous thing to direct one's actions according to these signs, even if one does not believe in them. (See Sanch., loc. cit., number 8). The following are permitted: 1st, physiognomy, which considers the temperament of the body, and even the inclinations and affections of the soul, from the countenance, disposition, and habits of the body and its members; 2nd, chiromancy, if it considers the temperament of the body, and even the inclinations and affections of the soul, by examining the lines and parts of the hands; (Idem, Salm., number 73 and 74, with Azor., Bon., Sanch.). 5th, divination, which conjectures the temperament of a person from dreams, and from this, the affections of the soul during the day; 4th, also, other signs by which certain natural effects are foretold from the voices, movements, or other actions of birds, fish, or other animals, which most often occur.

[*Latin ed. p. 22*]

5. "Natural Astrology, which foretells corporeal and natural effects, such as winds, eclipses, fertility, health, diseases, and the like, which are useful for medicine or agriculture; indeed, it can even, from the point of birth or horoscope, probably predict the constitution of the body and the affections of the mind. Because all these divinations are natural and use proportionate means. Less. lib. 2. cap. 43. d. 7."

10. "Another kind of natural astrology conjectures rains, storms, the sterility of the land, and the like; and this is not illicit, as this Busemb. says with Salm. tract. 21. cap. 11. n. 35, although it is mostly useless and uncertain. Another kind is judicial astrology, which foretells future events that depend on the will of men, based on signs in the stars; and this, if it is done concerning a particular person, is illicit, as Salm. says d. 1. num. 46. with Trull., Sanch., Salm. etc. against Pal. and others apud ipsum, even if it is done not with certainty, but conjecturally or probably: according to the Constitution of Sixtus V. *Moderator cæli*, year 1586, those who dare to affirm it with certainty or protest are also condemned. However, they consider it permissible if it is done in general, for example, if wars, seditions, etc., are foretold. Thus Salm. ibid. n. 48, from St. Thomas, who p. 1. quæst."

[*Latin ed. p. 23*]

115. Article 5, paragraph 3: Thus it is written: "More men follow the passions to which the celestial bodies can contribute. Few resist

their passions. And thus, astrologers, as in many cases, can predict true things, and especially in general matters, but not in particular ones." The question arises whether it is permissible for astrology to predict, from the horoscope and the point of nativity, a person's inclinations and temperaments. Distinguish: if it predicts with certainty, it is certainly illicit, since all things are uncertain. Thus, St. Augustine, in *De Civitate Dei*, book ii, chapter 10, along with Sanch., Trull., Suar., and others, generally hold this view; however, they consider it to be only a minor sin, as stated in number 52, along with Laym., Suar., Sanch., etc., against Fill. and Trull. "If, however, it predicts only probabilistically, or conjecturally, it is permissible, as stated by St. Augustine, number 53, along with St. Thomas, Suar., Pal., and Bonaventure." All such predictions are illicit, however, if anything is intended to be known or foretold about things to which they are not proportionate: such as contingent and free effects, or those which depend on God; such as the state of the soul, gifts of grace, riches, honors, fortune, marriages, the state of life, and similar things, the choice of which is voluntary and depends on the free will of men; and also concerning hidden things, such as theft, a hidden treasure. See Lessius, *loc. cit.*, and Bonaventure.

[*Latin ed. p. 24*]

d. 3. question 3. number 11., Suar., Sanch. in the aforementioned place, Bon. number 11. ». They say that it is not illicit to predict future contingent events conjecturally, only from signs of birds, etc., as Psalm 98, in fine, states with Lessius, Palotti, Sanchez, Fillon, etc. because the constellation which can move men to war, can also cause those signs in birds. 10. Those who consult the Egyptians about fortune tell, and indeed, if it is done with firm faith or scandal, etc., mortally; but if the cause is curiosity or laughter, as commonly happens, venially only. Fillon and Sanchez. ». 11. Superstitious is divination which is done through divinatory lots in order to know something about the future or something hidden, as if some divine power were inherent in the lots: for example, if someone, for instance, divines from the projection and arrangement of dice who will obtain victory, benefit, etc. The same applies almost to consulting lots, by which one inquires what should be done in this or that matter. I said almost, because sometimes they are licit when necessity and honesty demand it, and no more suitable method of resolving the doubt appears; provided that they are done with prayer and due reverence, and that the indication is sought only from God alone: for example, if someone, being at a crossroads, cannot otherwise determine which way to go; or.

[*Latin ed. p. 25*]

If they are done by divine inspiration or command, as happened in the election of Saul, as in 1 Kings 10. Fill., Sanch., Bon. in loco citato. ». 12.

Lots, without superstition, and often lawfully, can be drawn, whether for an honest game, or for the division of an inheritance, or for the settlement of a dispute, provided that those who have an equal right consent; because they contain nothing other than a contract between those who have a right to something, so that it belongs to the one to whom the lot falls. Thus, even if several have deserved death, and it is not possible to punish them all, it can be determined by lot which of them should be put to death. I said "often" because they are illicit in ecclesiastical elections, as Laym. lib. 3. tom. 4. and Bon. state, and because secular offices are to be divided according to the aptitude of individuals, although among several equally apt and worthy individuals, lots may be drawn. V. Less. c. 43. ». Lots are permitted in elections for secular offices, provided they are among the worthy. Sporer de I. præc. c. 9. n. 21. with S. Th. q. 97. a. 8., Sanch. and comm. As for ecclesiastical offices or benefices, they are forbidden by Canon Law, concerning lotteries. However, whether such an election is null, Panorm. and Villal. affirm, citing Salm. cap. 11. num. 91., but Salm. denies it, citing n. 92. with Suar., Sanch., Laym. etc., and this is more probable; because nowhere is such an election...

[*Latin ed. p. 26*]

It is declared invalid. However, the sole exception is the election of a prelate who holds jurisdiction according to canon [law]. Because of this, concerning elections, canon 11 states: "Is it permissible to use lots in deciding disputes concerning ecclesiastical offices or benefices?" Laym., Less., Host., Abb., and others, cited by Salm. n. 85, affirm it. However, Felin., Farin., and Salm., n. 88, along with Suar., Sanch., and others, deny it. Indeed, the latter opinion is truer; for according to canon [law], "Ecclesia extra," concerning divination, the ecclesiastical election by lots is universally prohibited. In our case, such an election of one of the disputants would already have been made by lot, at least in part. However, Salm. ibid. states that this is permissible if this election is made by the authority of a judge, because then the danger of a corrupt entrance is avoided, since the judge, having jurisdiction, confers a legitimate title. Finally, it should be noted from Salm. ibid. n. 95, along with St. Thomas, Suar., Pal., and others, that divinatory lots, even if expected by God, are only permissible when: 1st, there is an urgent necessity for salvation; 2nd, divine matters are not turned to earthly affairs; 3rd, lots are not cast in any ecclesiastical elections, which should be made by the inspiration of the Holy Spirit; hence, Salm. says it is rarely permissible, d. n. 95, 13th. One can be excused from superstition if he clearly demonstrates that he does not intend to illicitly divine the future.

[*Latin ed. p. 27*]

For the sake of jest. The reason is because it is not an act of superstition, nor an affectation of knowledge of God Himself, but merely some vanity.

Suarez and Sanchez, *Relationes*, book 17, number 170. ("Unless he believes that [the Psalm] says, chapter 11, number 33, and that it is false.")

THIRD DOUBT. WHAT AND HOW MANY ARE THE FORMS OF IDOLATRY?

12. RESPONSE. 1. It is when honor is given to a creature, as to God. St. Thomas, question 94, article 1. This, as Lessius teaches in book 2, chapter 43, is done not only through sacrifice, but also through any sign of honor by which one intends to submit to a creature, as to God, for example, through kneeling, bowing, or uncovering the head before the statue of Jupiter.

13. RESPONSE. 2. Idolatry is twofold: one is material, or feigned, as when someone, without internal feeling, offers worship to an idol out of fear of death; the other is formal and proper, or perfect, as when someone worships an idol, believing it to be God out of infidelity; or imperfect, when someone, either out of hatred of God or out of a desire to obtain something from a demon or another creature, offers worship to it, as to God. Laym., *loc. cit.*, from St. Augustine and St. Thomas.

Therefore, it is resolved: 1. Idolatry is sometimes joined with...

[*Latin ed. p. 28*]

"Concerning infidelity or heresy, when, indeed, a creature is worshipped in the understanding as if it were God, sometimes it is not [considered idolatry]."

"2.º Idolatry, whether material or feigned, is a grave and mortal sin: because it is at least a pernicious lie and against religion; often also against the external profession of faith. See Sanchez, book 1, chapter 37, number 21, and Azor, part 1, book 9, chapter 11."

"3.º Imperfect idolatry, on account of the malice of the will, is a graver sin than perfect idolatry. See Layman, book 4, part 1, chapter 10, section 2, and Sanchez, book 1."

"FOURTH DOUBT. WHAT IS VAIN OBSERVANCE, AND IN HOW MANY WAYS DOES IT OCCUR? 14. What is vain observance, and in how many ways? 15. Is it a grave sin? 16. How can it be recognized? 17. Resolution of cases. 18. Is the title 'savior' permissible? 19. Is it permissible to ward off those who perform supernatural marvels? 20. What is to be presumed in cases of doubt? 21. Are psalms permissible? 22. Is natural divination permissible?"

"R ESPONSE. 1.º It is superstition whereby someone seeks a certain effect by means of some disproportionate and by God not instituted means, for example..."

[*Latin ed. p. 29*]

"Health, knowledge, etc. St. Thomas, 2-2, question 69, article 1; Bonaven-

ture and others. However, it differs from divination, because the latter is only ordered towards the knowledge of hidden things, while the former is directed towards an external effect. It agrees with the same, because both are supported by a pact with a demon, and to it is attributed a perfection proper to God. Therefore, what is said about divination should be proportionately applied to this." Response. It is divided into: 1st, like divination, into that which proceeds from an explicit pact with a demon, and that which proceeds from an implicit pact. 2nd, it is commonly divided into four species. The first is called *ars notoria*, which uses the inspection of certain figures, or some other form of fasting, prayer, etc., to acquire knowledge suddenly and without labor, as the Anabaptists do. The second is called *magia* (which name is otherwise general), which deals with the alteration of various bodies, and other marvelous effects. The third is the observation of events, by which, from the consideration of some event, one conjectures what will be future: for example, if, from the chance occurrence of a fox, a dog, or a corpse, one believes that something certain is imminent, and thereby regulates one's actions. The fourth is called the observation of health, when certain signs, prayers, a certain number of *crucium*, sacred words, etc., are used, as if necessary and efficacious for driving away diseases. The same is true of the gestation of relics. *Liguori, Theologia Moralis, T. III.*"

[*Latin ed. p. 30*]

"When accompanied by a frivolous circumstance, for example, in such a place, for so many days, with such a herb, etc. Sanctius, chapter 40, number 11; Fillius, volume 14, chapter 6, number 157. " 15. " Response 3rd. A frivolous observance, such as divination, is a mortal sin in its genus. The reason is, firstly, because it attributes divine honor to a creature, expecting from it that which ought to be expected only from God alone; secondly, because it relies on a pact with a demon. Lessius, Bonaventure, question 5, part 4, and others. Nor can it be excused from being mortal on account of the smallness of the matter; because, simply and in every matter, the knowledge or power of God, which is His own, is usurped. However, it is possible for it not to be mortal, as the aforementioned authors teach in the aforementioned response, number 3, 1st, on account of ignorance, if the pact is only implicit; 2nd, if faith is not employed, even if it is feared that it will be so or will come to be. See the statements on divination, number 8, case 7, and Lessius, question 8, numbers 55 and 66. " 16. " Response 4th. A frivolous observance can be recognized: 1st, by the insufficiency of the cause employed to achieve the effect; if, indeed, it has neither natural virtue nor legitimate supernatural basis; 2nd, by the addition of a false or frivolous circumstance, such as, for example, if the flagellation must be performed at a certain hour, with a certain number, by a certain hand, with a silk scourge; if unknown names are used or foreign characters, false or

apocryphal words: for example, that Christ had fevers..."

[*Latin ed. p. 31*]

"Spasm, etc.; also, if a particular style of writing is employed, for example, the Gospel of Saint John, with the rising sun, etc.: 3rd, if the effect immediately vanishes, etc. *De Divinatione* book 2, question 5; Sanchez, chapter 40, number 43." From the aforementioned, the following are resolved: 17. "1st. It is superstitious to: 1st, to take any potion, or bolus, or anything else, in order to suddenly acquire some knowledge. 2nd, to wear amulets, ligatures, or coverings marked with false characters, against wounds or sudden death, lest one be harmed, or lest blood flow, or to secure invisibility, impenetrability, love, fortune, or to ward off harm and evil deeds. 3rd, to infer an event from a chance occurrence, for example, that something good or bad will happen to oneself: as if, upon leaving in the morning, one stumbles, and therefore returns home, fearing some misfortune. 4th, to consider certain days as fortunate, and others as unfortunate, and therefore to omit some task, for example, to refuse to cut one's nails on a Friday. 5th, to use the blessings and prayers of women who chant incantations to drive away a disease. 6th, to cast a statue of a saint into a river, so that it may rain. 7th, if it is believed that Masses are not beneficial to the deceased, unless they are recited seven times with seven candles of certain colors and seven acts of charity. 8th, if an unguent used to anoint a sword..."

[*Latin ed. p. 32*]

"9. If someone is absent, care must be taken for them. 10. If, on a certain feast day, for example, the feast of Saint John, certain prayers are recited, or on the feast of Saint Matthias, ivy leaves are placed in water, so that it may be known to whom they ought to be married. 11. If certain prayers, images, or characters, or crosses, are attributed with a certain and infallible power, for example, to escape from an enemy, to expel diseases, to avoid dying without a prior confession, to avoid misfortune, etc. However, it is one thing to ask for and hope for these things through prayers. *Delrio, lib. 3, p. 2, resol. 4, sect. 7; Suar., c. 15; Less., cap. 4, d. 3; Sanch., n. 54 et 57; Fill., n. 150.*"

"1. It is not superstitious to: 1. Observe the moon or more suitable times for collecting herbs, for example, on the day of Saint John the Baptist, for cleansing bodies, for cutting down trees, etc. 2. To carry the words of the sacred Scriptures or relics for the sole honor of God and without those vain additions. 3. To lead an animal around the temple of a certain saint three times, or to cut the vein of a horse on the day of a certain saint, if indeed these things are done to excite greater devotion and the effects are attributed to the merits of the saints. However, it would be different if such circumstances were considered infallible, or absolutely necessary, or efficacious in themselves. *See Nav. in man., c. 11. Addit Laym. ex Caj.*

If uneducated people, in good faith and out of devotion, observe a certain rite not received by the Church, sometimes..."

[*Latin ed. p. 33*]

4.º Certain devotions, which they call "novenas," are not to be condemned, for example, celebrating nine, or, following the example of Saint Gregory, thirty, or some other fixed number of Masses, with a certain number and size of candles, and similar things, if they are done in memory of some mystery, for example, the nine months in which Christ was in the womb, or the five wounds, etc. However, it would be superstitious to believe that these prayers do not help in a greater or lesser degree.

5.º Many also excuse those who heal bites from a rabid dog, believing that they have been given this grace freely: and thus, Navarr. in man. c. 11. See Sanch., Laym., Bon. ll. cc. ». 18. The question is whether the virtue (called natural magic) is given and is licit in some whom they call "healers," who cure certain diseases by the sign of the cross, or by sacred words, or by incantations. Azor and others, apud Salm. tract. 21. c. 11. n. 113, affirm that such a virtue is given at that time, and that it is a natural virtue. Others, n. 114, say that such a virtue is not given, neither naturally nor freely. However, Salm., from n. 116, along with Delrio, Navarr., Vill., Trull., Pal., Hurt., and others, as well as Sanch. dec. l. 2. c. 40. a. n. 47., Suar. de relig. tract. 3. lib. 2. c. 15. n. 25., and Less. lib. 2. c. 43. num. 63, hold a different opinion.

[*Latin ed. p. 34*]

It is said that this virtue is present in some, as is known, that the kings of France heal scrofula (as St. Thomas acknowledges with Boniface VIII in the canonization of St. Louis), and the kings of Spain heal scrofulas. However, it is said that this virtue is not natural (although this seems quite probable to some grave Doctors); for if it were natural, all people of the same temperament would possess the same virtue; but rather, it is a gift freely given by God for the public good, according to the Apostle, 2 Corinthians 12:9. Others say that healing is given by grace, etc. Here, it should be noted that in the Roman Martyrology, it is recorded under the date of March 5th, a miraculous healing from the bites of serpents of those who, believing, touched the door of the temple of St. Phocas the martyr, invoking his intercession. In Antioch (the words of the Martyrology), is the nativity of St. Phocas the martyr; who, after suffering many injuries for the name of the Redeemer, it is declared today to the people by this miracle, that if anyone is bitten by a serpent, and, believing, touches the door of the martyr's basilica, he is manifestly healed, the power of the venom being expelled. 19. It is true that those who handle charcoal should be avoided, those whose breath ruins the furnace or kills a man, those who heal with wine, those who, in the presence of another savior, lose their power, those who possess such

a...

[*Latin ed. p. 35*]

They learn virtue from another, who says that someone possesses such virtue because he was born on the feast day of Parasceve, or because he is the seventh son (but in this passage, Vives says that some natural virtue may be given), or because he uses certain words in which he believes a virtue is inherent; when grace is conferred upon a person, and not upon words and signs. Thus, Psalm 118, with Suarez, Sanchez, Delrio, Palotti, Hurtado, etc., number 20. They also observe that, in doubt, it is to be presumed that some effect is more likely to proceed from a natural cause than from superstition. Thus, Spina, Disputationes de Iurisprudentia, preface, chapter g, number 31, with St. Augustine, Sanchez, Layman, Elbing, number 591, Croix, book 3, page 1, number 28, and Salmeron, Tractatus, book 21, chapter 11, number 112, with St. Thomas, who teaches in 2-2, question 60, article 4. Where there are no manifest indications of the malice of someone, we must consider it to be good, interpreting what is doubtful in the better sense. However, it is prudent for authorities to preface such a judgment with a protestation that they do not intend to attribute the effect to superstition, if any superstition remains. If, however, it is certainly and probably established that a thing has no natural power to produce an effect, in doubt, it is considered more likely to proceed from a demon than from God, when there is no divine promise concerning it, as Sanchez teaches in Decretorum, book 2, chapter 40, number 2, with Gersone and Spina, number 33, with St. Thomas, 1-2, question 96, article 2. Whether it is permissible to use powder...

[*Latin ed. p. 36*]

Sympathetic powders, Elbel responds in number 516, and the Doctors commonly deny that such powders possess the power to act at a distance. Therefore, Elbel believes that such use is not easily to be approved; nevertheless, it may be permitted in an urgent case, provided that the wounded person is not too far away, for example, beyond 300 paces, and provided that a declaration of intent is made beforehand. The reason is that it is probable that an action can occur at a distance. It seems to me to be very likely that this is permissible if such a powder is not applied at a great distance; I am guided by what the celebrated philosopher Purchotius says in his *Institutiones philosophicae*, volume 2, part 1, physics, section 5, chapter 11, where he writes: "A powder of calcined vitriol, which is called sympathetic, when injected into the blood recently emitted from a wound, is observed to heal the wound and stop the bleeding, even when the powder is applied several paces away from the wound." This, he says, cannot be conceived to happen in any other way than through a substantial efflux, or through the spirit of the vitriol, which, being mixed with the heated particles of

blood, is carried to the wound from which the blood flowed, and, as it were, certain wedges, they block the open passages through which the blood flows. However, Croix, in number 29, with the approval of Burgoyne and others, says that it is superstitious to anoint a sword still hot with the blood of the wounded at a distance. But, for the same reason as mentioned above, it is probable that Spor also permits this.

[*Latin ed. p. 37*]

In the aforementioned passage, we have already stated that, concerning whether an effect originates from a natural cause, it is not superstitious to seek it, provided that a protestation is made beforehand. However, when certain signs of the Cross or the recitation of the Our Father are employed, if there is doubt as to whether superstition is present, Lessius, in book 2, chapter 45, number 26, permits this, provided that an explicit protestation is made beforehand. Sporer, number 34, and Tamburini, in book 2, chapter 6, section 1, number 12, agree, if a notable necessity arises. However, Sporer, in chapter 9, number 52, condemns, as superstitious, the regular gathering of herbs or fruits on certain feasts or at certain times, unless the circumstances of the time contribute to the virtue of the herbs, as in the spring, the equinox, etc. Furthermore, Sporer, number 28, condemns leading horses around the temples of the saints, unless the effect is awaited through the merits of those saints; therefore, he states that where such a custom exists, it should be abolished; but if it cannot be removed without offending the people, at least the person should be instructed as to the intention with which it is done. 3. It is not illicit to make use of the virtue of a natural thing which is known through superstition, provided that its observation or operation does not depend on the help of demons. The reason is that, although that knowledge may be obtained in a bad way, the sin passes, and the natural virtue does not cease to be.

[*Latin ed. p. 38*]

"He has contracted nothing of evil. See Sanch. 2. moral, chapter 38; Bon. Quest. 5, page 4; Laym. loc. cil. vol. 10, chapter 4. " 21. What about *empsalmi*? An *empsalmus* is said to be so called because it is commonly composed and arranged from the words of the Psalms, for the healing of diseases. If an *empsalmus* is invocative, that is, if it asks for health from God, then it is licit to believe that it infallibly produces an effect. Otherwise, if it is constitutive, that is, if it is attributed with an infallible virtue, then it is not licit. Thus, Salm. tract. 21, chapter 11, numbers 124 and 125, with Navarr., Azor., Bon., S. Anton., Suar. Indeed, an *empsalmus* is illicit (as taught by St. Thomas, 2-2. Quest. 96, art. 4) if a demon is invoked indirectly in it, or an unusual name of *angelorum* (Puebla) is used, or if false or vain things are mixed in it, or if a certain method of writing or reciting is employed. 22. Is natural fascination permissible? Salm. number 104, with

St. Thomas, 1. p. Quest. 117, art. 3, ad 2, affirms this, who says: "But the eyes infect the continuous air up to a certain space." Hence, they say that Salm. number 138, that someone who experiences this pestilent quality in themselves is obligated to abstain from excessive association with people, or to avert their gaze. They say, however, that Salm. number 133, contrary to Azor. 1. g. c. 25, the common fascination that is believed by the common people is superstitious, namely, that those who look with a malicious intent harm others.

[*Latin ed. p. 39*]

And therefore, as if superstitious, those objects or trinkets which are imposed against enchantments ought to be avoided. But if they are used against a natural enchantment, as mentioned above, I do not know why they should be so strictly condemned; for it is certainly not apparent that these said objects naturally possess any power to remedy that evil influence. Spor. de I. præc. cap. 9. n. 31 agrees with me, as we mentioned above, who says that, if there is doubt whether a thing applied has a natural power, it may lawfully be used, as the common Doctors from St. Augustine teach. All the more so, because generally, certain faith is not given to them.

FIFTH DOUBT. WHAT IS WITCHCRAFT AND HOW CAN IT BE REMOVED?

23. What and how much is witchcraft?

24. What remedies may be used against witchcraft?

25. Is it permissible to ask a prepared sorcerer to remove the witchcraft, along with another? And is it permissible in doubt whether he knows the lawful method?

26. What about witches?

27. What excommunication do sorcerers incur?

28. How should a confessor behave with sorcerers and witches?

RESPONSE. 1st. Witchcraft is a power of harming others through a pact and cooperation with a demon. It differs from magic, because this intends to perform wonders.

[*Latin ed. p. 40*]

"But this must be directed to causing harm. Tol. lib. 4. cap. 10., Fill. tom. 24. cap. 8. quaest. I. ». Resp. 2.º Another kind of evil is called an amulet or philter, the use of which is to excite carnal love or hatred, by moving the phantasy of a man through a demon, yet without acting upon the will. Hence, it is clear that if those infected in this way fall into error, they truly sin; because freedom is not taken away. Another is called witchcraft, by which harm is inflicted upon a person or his goods. Fill. loc. cit. n. 183, Azor. tom. 1. lib. 9. cap. 26. ». 24. » Resp. 3.º Against witchcraft, one may use:

1.º remedies sought from medicine (for many herbs, such as rue, *salvia*, etc., naturally help against witchcraft, because by their natural virtue they correct the humors disturbed by a demon): but it is not permissible to use wolfsbane, powder sprinkled upon the body, and similar things, which do not naturally contribute to calming the humors. See Salm. cap. 11. n. 143 and 145: 2.º exorcisms and the sacraments of the Church, pilgrimages, invocations of the saints, etc.: 3.º the destruction of signs by which the demon causes harm, without, however, committing another evil. Navarr. and commonly others. (It is also common in Salm. cap. 11. n. 158.) ». 4.º If the sorcerer can remove the evil by a lawful means, it is permissible to compel him to do so.

[*Latin ed. p. 41*]

To demand it, indeed, even to entice with money, or to compel with blows or torments (though not to kill), if he is unwilling. Lugo, *Diana Veteranorum*, part 8, vol. 7, p. 53. And this, even if it is known that he will do so through a new evil act; just as it is permitted to demand interest from a usurer: the reason is, because when I have the right to demand something that can be rightfully obtained from him, and it is indifferent to me, his malice will be imputed to him if he acts wrongly. (Thus Salm., ibid., no. 154, with Pal., Suar., etc., against Cajetan). See Sanch., book 7, on marriage, dispute 94, no. 11; Fill., no. 192; Less., book 2, chapter 44, no. 6, against Delrio. 5º. It is also permissible to apply the opposite, a positive sign, even though it is honest in itself: for example, if a demon, having made a pact with a sorcerer, promised to harm someone as long as the sorcerer does not mark himself with a cross or wash his body (for this often happens with such a condition, for example, that the harm will last as long as a certain binding remains or a certain object remains buried in a specific place), it will be permissible for him to mark himself, wash, etc. Suar., Less., book 2, chapter 44, no. 45. (Thus also Elb., no. 534; Salm., no. 161; Sanch., Pal., Trull., etc.). The reason is, because there is no positive intention of restoring health by that means, but only of removing the sign and dissolving the pact with the demon. Therefore, it is also clear that it is permissible to strike the object that touched you;

[*Latin ed. p. 42*]

"For this often results in greater harm: as Lessius states in the cited passage, and Sanch. in book 7, on matrimony, in disputes 95 and 96."

"6th. If a malefactor cannot remove the harm except by committing a new wrong, it is not permissible to urge him to do so, because that would be to incite to sin and to cooperate with an intrinsically evil act. Suar., Sanch., Less., etc., in their respective works."

"7th. If he doubts whether he can remove the harm without committing a new wrong, it is not permissible to demand it of him, as Laym. states in

book 4, treatise 10, chapter 4, number 9, as do Sanch. and Suar.; because there is a danger of sinning. However, it can more easily be presumed that he who has placed the signs [of a magical curse, etc.] can destroy them without committing a new wrong, than he who has not placed them."

"Therefore, if this person offers his services, he must first be examined regarding the method of resolving the issue. See Laym. here, and Bon. in book 3, question 5, paragraph 5, number 25."

"Question 1st: Whether it is permissible to ask a prepared malefactor to remove a harm by means of another wrong. Angel. and Aureol. affirm this, as cited by Salm. in chapter 11, number 146; just as they also say that it is permissible to ask a sacrilegious priest for the sacraments for one's own benefit. However, the negative opinion should be held, as Lessius states in book 2, chapter 44, number 35, and Salm. in number 134, along with St. Thomas and many others. The reason is that a sacrilegious priest can administer the sacraments without sacrilege; but a malefactor cannot commit a wrong without the cooperation of a demon, which is intrinsically evil. Nor is he prepared to do so, as stated in book 2, number 47."

[*Latin ed. p. 43*]

Question 2: Whether it is permissible to ask a sorcerer for a solution to a curse, even if one doubts whether the sorcerer knows, or does not know, a lawful method of resolving it.

It is certainly permissible if it is established that the sorcerer does not know a lawful method, even if he intends to use an unlawful method; because that intention is attributed to his malice. Thus, generally, with Busemb., as above, number 4; Salm., *dicta*, chapter 11, number 151; and Sporer, *de I. præc.*, chapter 9, number 43, with Laym., Sanch., and Less. Likewise, Tamb., chapter 6, § 2, number 9; Sporer, number 42; Viva, question 5, article 5, number 4, with Sanch., Trull., Fill., and Elb., number 532, with Suar. and Sayr, state that it is permissible if it is certainly probable that the sorcerer knows a lawful method.

But what in a negative doubt? Tamb. states, number 10, and Viva does not reject, number 3, that sometimes it is also permissible to ask; because it is not uncommon for sorcerers to be presumed to not be ignorant of a lawful method, based on commonly occurring circumstances. But this contradicts the common opinion, which is held by Sanch., *de matr.*, book 7, chapter 95, number 13; Less., book 2, chapter 44, number 46; Viva, *loc. cit.*, number 3; Salm., number 152, with Pal., Laym., etc. The reason is that it must be presumed that sorcerers do not know anything except unlawful methods.

However, if in any case there is a just presumption that the sorcerer knows a lawful method of resolving the curse, for example, through the removal of a sign, the opinion of Tamburini seems sufficiently probable, to

whom the common opinion would not then be an obstacle.

[*Latin ed. p. 44*]

They are opposed; for, as Tamburrini says, Doctors disagree when a doubt cannot otherwise be resolved. Busenbaum, Sporer, number 42, Viva in the cited place, and Elbing, number 533, with Layman, Lessius, and Delrio, state that it is more easily presumed that he who placed the signs knows how to remove the evil in a lawful manner, by removing them, than that another who did not place them knows how.

26. It must be noted that there is a common opinion with Salmanticensis, chapter 11, number 172, Suarez, Lessius, Delrio, Palearius, Sanchez, etc., that there are striges [witches] which, by the power of a demon, carry things from place to place physically. This does not contradict chapter 26, question 5, where it is forbidden under pain of excommunication to give credence to such tales about amulets; for there, it is forbidden to assert at the same time that they walk about with Herodias or the goddess Diana. See Elbing, number 527, who, with Delrio and others, holds a contrary opinion, which Luther, Melancthon, and some Catholics held, namely, that this happens through mere illusion and the power of the imagination, which is very harmful to the Church, because it leads to the removal of such enchantresses from the very punishments that have been imposed upon them; which is a great detriment to the Christian republic.

27. Those who practice magic incur excommunication, as stated in the chapter "Si quis hariolos" [If anyone practices sorcery]. This, however, Salmanticensis, chapter 11, number 101, with Taberna and Delrio, hold to be a widely accepted opinion.

[*Latin ed. p. 45*]

In the dictionary, the word "anathema sit" is to be understood as: "Let him be anathema." However, Suarez, Sanchez, Azorín, Lessius, and others, in number 200, maintain that this phrase is to be understood differently, and they state that the words "anathema sit" in matters of faith signify that the heretic is already excommunicated by the Church, but in other matters, they signify only a separation that is to be made. They also incur the censure of excommunication by the Bull of the Coena if heresy or (as Salm. says) a vehement suspicion of heresy is joined with it, namely, when they enter into an explicit pact with a demon, or when they mix sacred things with the devil, or consult about things which he himself is not permitted to know. Thus, Salm., number 203, with Suarez, Azorín, etc. But this must be understood when there is an error in faith in understanding, as Sporus says in *De Iudiciis Præceptorum*, chapter 9, number 45. For otherwise, formal heresy is not given, even if someone outwardly denies the faith, as is certain with Busembach, as mentioned above concerning the proper faith, book 2, number 19. And without formal heresy, the excommunication by the Bull

is by no means incurred, as is certain with Layman, 28.

Question: How should a confessor act with diviners, sorcerers, etc.?

Answer: 1.º They must be examined, besides concerning various superstitions, 1.º regarding the purpose for which they have adhered to such a superstition, for example, whether it is due to a vehement passion, sadness, vengeance, avarice, or the name of sanctity.

[*Latin ed. p. 46*]

"1. Regarding reconciliation, which would be a sacrilegious hypocrisy. 2. Regarding apostasy, idolatry, and heresy: for they deny Christ and God, renounce the sacraments, have a demon for God or a saint, and do not consider themselves or their fellow adherents to be condemned, and consequently, their associates are not to be condemned. 3. Regarding blasphemies against God and the saints, and sacrileges: for they abuse sacred things, such as blessed water, the Eucharist, etc. 4. Regarding lust and communion with a demon. 5. Regarding damages inflicted upon one's neighbor. Suarez, Sanchez, Filliu, and Bona, in the cited passages."

"Response: 2. They must be admonished with severity: 1. To renounce and dissolve any explicit pact or commerce they may have with the demon. 2. To burn their books, notes, bindings, and other instruments of the art. 3. To burn any written agreement they may have; if the demon alone possesses it, it is not necessarily required that it be surrendered, because the pact is sufficiently dissolved by penance. 4. To make amends for the damages inflicted, to which the treasury is also bound (where the goods of sorcerers are confiscated), as are the heirs, if the goods pass to them. Laym., in the cited passage; Suarez, Vol. 1, on Religious Matters, Book 2, Chapter 17; Sanchez, in the cited passage, Chapter 49; Filliu, etc."

"Response: 3. They must be admonished by the parish priests and examined by confessors regarding this precept, especially concerning: 1. Those who, through various..."

[*Latin ed. p. 47*]

1. Those devoted to observing certain practices are wont to protect their flock from wolves or other dangers; 2. blacksmiths, who, when tending to sick horses, use words taken either from the Psalms or from the Our Father; 3. rustics, who, when healing sheep, employ empty and superstitious observances, or they resort to experts in such arts; 4. old women, who, when attending to women in labor or those afflicted with ailments, use vain and superstitious prayers; 5. soldiers, who carry with them sacred names or prayers, so that they may be certain that they will not be wounded in battle or in a duel, and that they will never perish by water, fire, or sudden death.

[*Latin ed. p. 48*]

CHAPTER II. ON IRRELIGION AND ITS KINDS. IRRELIGION, which

is opposed to religion either by deficiency or by action, either directly tends to irreverence towards God, and is either blasphemy or perjury; or it tends only to irreverence towards sacred things, and is either sacrilege or simony. Of perjury, in the second precept; of the others, here.

FIRST DOUBT. WHAT IS THE TENTATION OF GOD?

29. What is the temptation of God?

30. Whether in the temptation of God, there is given a smallness of matter. And what is the interpretative temptation?

31. Whether he sins who asks a miracle from God?

32. Whether he who offers himself for martyrdom? And whether he who rejects medicine?

29. ANSWER. The temptation of God is a word or deed by which someone investigates whether God is powerful, wise, merciful, or possesses some other perfection. *Summa Theologica*, 2-2, question 92, article 1; Sanchez, etc. It is twofold: namely, either formal, when someone expressly doubting of some perfection of God desires to test it; as if someone were to ask for a miracle to demonstrate that the Catholic faith is true, or to offer himself to be killed, so that God may show His power by preserving him.

[*Latin ed. p. 49*]

"A precipice from a tower, to test whether God is merciful in rescuing him from harm; or it is implicit and interpretative, when someone, even if he does not expressly intend to test God, requests or does something that, by its very nature, seems to be directed towards God; such as when someone exposes himself to danger from which he can scarcely, or not at all, be rescued except miraculously; or when he omits natural means, hoping for an effect solely from God, for example, in a dangerous illness, rejecting medicine and rashly requesting and hoping for health from God alone. *Nav.*, cap. 11; *Less.*, no. 4. Also, if someone, without necessity and without reason, and without preparation, wishes to preach, hoping that God will suggest ideas to him. *Suar.*, *Sanch.*, *Less.*, *Laym.*, lib. 4, tom. 10, cap. 5."

"Therefore, we conclude: 1st, A formal temptation of God is a mortal sin by its very nature, in whatever matter it may occur. The reason is that it includes doubt about the perfections of God, which leads to great contempt for God, or great irreverence, acting with God as if with a game. *Less.*, lib. 2, cap. 45, d. 1; *Sanch.*, lib. 2, c. 3; *Suar.*, and others, comment."

"2nd, An interpretative temptation, in which that doubt is lacking, is usually only a venial sin, due to the imperfection of the act, ignorance, inconsideration, or the smallness of the danger. Indeed, often it is no sin

at all, when..."

[*Latin ed. p. 50*]

"For, certainly, there must be a just cause present, for example, the prompting of God, necessity, or pious utility. Sayr., Tol., Cajet., *Summa Theologica* 2-2, quaest. 92, n. 30."

"But the question here is whether, in a temptation of God, such as the one described above, a small amount of matter is permitted. Bus, along with Cajet. and Valent., in 2-2, dist. 6, qu. 14, n. 2, Less. in lib. 2, cap. 45, n. 4, Sayr., Clav. reg. lib. 6, cap. 7, n. 14, and Tolet. lib. 4, cap. 19, n. 7, affirm this. They say that if someone were to tempt God in a trivial matter, without any danger of serious harm, solely out of curiosity to witness some supernatural work, he would only sin venially. However, it is more probable, according to Sanch. in dec. lib. 2, c. 34, n. 5, Suar. tom. 1, de rel. tract. 3, lib. 1, cap. 3, n. 16, and Salm. tract. 21, cap. 12, n. 3, that he would be guilty of a mortal sin, unless excused by reason of ignorance or inadvertence. The reason is that it is a grave offense to desire that God should display His omnipotence in order to satisfy one's own curiosity. Hence, Salm. in the aforementioned passage, say that it is more likely that someone would sin gravely who, suffering from a minor illness, and rejecting medical treatment, would hope for healing from God, even if he did not ask for a miracle: because, as they say, in rejecting remedies, he seems to be, in effect, desiring a miracle, since he wishes to alter the natural course of events. But Sanch. in the aforementioned passage, along with Leonardo, Bon. de I. præc. d. 3, quæst. 9, part. un. n. 3, and Suar., contradict this doctrine."

[*Latin ed. p. 51*]

Anacl. ibid., quaest. 1, n. 8; Elb., d. n. 56; et Spor., eod. tit., cap. 10, cum Laym., qui in hoc non cognoscunt nisi culpam venialem. Ratio, quia in hoc non est praesens gravissima deformitas: cum enim nemo miraculum quaerat ex curiositate, iuste excusatur ab gravi, et aliquando, spero, etiam ab omni culpa, si speret, Deo adjuvante, ab tali levis morbo liberari, dum saepe in hujusmodi morbis natura ipsa salutem operatur. 3.º Si quis se in puteum iacit ad demonstrandam Dei providentiam erga se, aut supra prunas ambulat ad innocentiam ostendendam, est interpretativa tentatio Dei: sicut etiam sunt hae probationes quae sunt per ferrum candens, aquam ferventem vel frigidam (tales probationes sunt vetitæ, cap. 1 et 2 de purgat. vulgar., ut communiter Salm., cap. 12, num. 5 et 6, etc.), de quibus v. Beinsfeld et Delrium, lib. 4, disp. Licet enim Deus aliquando tales probationes miraculose probarit, id contigit vel quia Deo inspirante factæ sunt, vel quia innocenter ad eas compulsi sunt et liberati. Bon., d. g., p. 1, n. 51. Peccat qui absolute petit a Deo vel offert miraculum ad conversionem hæreticorum, cum sufficiant testimonia fidei nostrae. Salm., cap. 12, num. 7, cum Suar.,

Pal., Sanch. Si vero aliquando sit firmissima spes...

[*Latin ed. p. 52*]

After conversion, he will then be able to ask God for a miracle, provided it pleases Him. *Psalm*, ibid. Furthermore, St. Thomas [of Aquino], in the cited passage, states that it is sufficiently permissible to ask God for a miracle whenever there is a grave benefit to our own or others' salvation, or to fulfill the divine will. And the same Doctor clearly teaches in *Summa Theologica*, 2-2, question 97, article 2, where he says that one should not tempt God by asking for a sign in order to demonstrate it to others; nor for the purpose of being instructed as to whether God is pleased with a certain action. Ibid., ad 5. Also, one sins who exposes himself to the danger of death or mutilation in order to endure martyrdom without a just cause; for in cases of necessity, if otherwise the faith or the salvation of many is endangered, or to avoid blasphemies, in which cases martyrdom is commanded; or in a case of utility, to exalt the faith or the glory of God; then it is permissible to offer oneself to martyrdom, as St. Thomas teaches in *Summa Theologica*, 2-2, question 144, number 3, ad 1. See *Salm*, number 9. Also, one sins who rejects medicine, unless it is done to mortify oneself; provided that there is no danger of death, as *Viva* states in question 6, article 3, chapter 6, and *Salm*, number 9, with Cajetan, Navarrus, and Sanchez. The question arises whether an explicit temptation of God differs in species from an interpretative one. Suarez and Bonaventure affirm this. However, it is more probable that they deny it, as *Salm* states in number 11.

[*Latin ed. p. 53*]

DOUBT NUMBER TWO. WHAT AND HOW MANY KINDS IS SACRILEGE?

33. What and how many kinds of sacrilege are there?

34. What kinds of sacrilege must be explained?

35. What are personal sacrileges?

36. What are local sacrileges?

37. Are markets, banquets, and legal proceedings permitted within the church?

38. Is it sacrilegious to remove a person from the church or the churchyard?

39. Is every theft within the church sacrilegious? What if it occurs in the sacristy?

40. What are real sacrileges?

41. Is it permissible to convert sacred vessels and vestments to profane use?

42. Is it sacrilegious to harm the goods of the Church, to withhold pious bequests, or to fail to pay tithes?

43. Is it sacrilegious to commit sins mentally within the church? Is it sacrilegious to omit the sacraments at the proper time?

44. Do censures incur against sacrilegious persons by the very fact of the offense?

45. Is it sacrilegious to steal relics?

46. Is it sacrilegious to sin on a feast day?

47. Is it sacrilegious to violate vows?

48. See other matters on this topic ibid.

33. *Response:* Sacrilege is a violation of something sacred, that is, something dedicated to divine worship, and it is a mortal sin by its very nature, if it specifically contradicts the sanctity of the thing; however, it is not so if it merely generally contradicts it, just as all mortal sins generally contradict the Law. *LIG. Theol. Mor. T. III. C.*

[*Latin ed. p. 54*]

It is repugnant to sanctity, for example, when sins are committed in a church. Sacrilege is threefold: personal, in which a person is violated; local, in which a place is violated; and real, in which other things are violated. *Summa Theologica* 2-2, quaestio 99, articulus 3, and other theologians. The species of sacrilege must be explained in confession: whether it is personal, local, or real. *Viva de I. præc. dec.* quaestio 6, distinctio 1, number 1, and Salm. chapter 12, with St. Thomas and others. The question is whether these species are subordinate or ultimate. The first opinion holds that they are subordinate, containing other inferior species within them. Thus Suarez, Palotius, Lessius, etc., in Salm. chapter 12, number 17, with Busenbaum (see number 47 below, ibid. number 5), and Elbing in *De Sacrilegio*, number 565, with Fillon. Therefore, they say that the striking of a cleric is different from the act of carnal intercourse with him. However, the second opinion holds that they are ultimate, as in *Viva* quaestio 6, articulus 1, number 2, and Salm. with Cajetan and Trullius; so that if someone violates a religious woman by beating her or by having carnal intercourse with her, he commits one and the same sacrilege in its formal essence. And so St. Thomas holds in *Summa Theologica* 2-2, quaestio 99, articulus 5, ad 2, where he says: "It is possible for two sins to differ in species according to the material acts, but to agree in species according to one formal reason of sacrilege; for example, if someone violates a religious woman by beating her or by having carnal intercourse with her." And this...

[*Latin ed. p. 55*]

It is more probable. Indeed, St. Thomas teaches ibid. that these aforementioned circumstances have different degrees, signifying that they constitute

aggravating circumstances, but do not change the nature of the sin. Therefore, it resolves: 35. "1st. Sacrilege is the striking of a cleric, the bringing of him to the secular court, also the luxurious violation of a person consecrated to God through the sacred vow of chastity; concerning which, see below, Book 4, chapter 1, doubt 4, number 37." 36. "2nd. Local sacrilege is every act by which the church is defiled, such as, for example, the killing of a person, the shedding of human blood or semen illicitly and manifestly within its walls. (As also, it is probable that Viva qu. 6, art. 1, no. 11, and Tamb. with Vasq., Pont., Dian., Con., Tol. apud Salm. tract. 6, cap. 8, no. 101, hold; against them, Suar., Bon., Lug., Pal. etc., and Elb. no. 556, who more probably say that even a hidden shedding of blood is sacrilege. See the statements in VI. preceding, no. 458, verse 2. Concerning the place, etc.). Also, the burial of an excommunicated person or an unbaptized person. Also, if certain profane acts are committed in the church and are contrary to its immunity, such as negotiations, illicit concubinage and obscenities, seditions, secular councils, agreements concerning horses, fires, break-ins, and pillaging. Also, if sacred objects or the church itself are directly subjected to..."

[*Latin ed. p. 56*]

Let profane uses be converted: if the guilty party is taken from the church, as if from a sanctuary, unless he is a public thief or a nocturnal cultivator of fields, or if he has committed a grave offense within the sanctuary itself. Finally, if things belonging to the church or deposited there are stolen. Layman's Commentary, chapter 7; Benedict, question 6. However, if something is taken from the church accidentally, for example, a container belonging to a wealthy man, it is probable that sacrilege is not committed, as taught by Diaz, page 1, volume 3, section 27, following Fagnon and six others, against Suarez, Layman, etc. ». 37. Similarly, a sacred place is violated if there are made within it proclamations, processions, markets, or the clamor of secular judgments, but not of ecclesiastical matters pertaining to piety. Sometimes, however, secular judgments or parliaments are permitted out of necessity, for example, because of rain or excessive heat; provided that they are conducted without clamor and that another suitable place is not available. Likewise, a moderate walk within the church or a private meal, even without necessity, does not seem to be a grave fault, if there is no scandal or clamor. Thus, Viva, ibid., number 11, following St. Thomas and Salm, dictionary, chapter 12, number 25. Here, it should be noted that no one, regardless of their dignity, unless it is royal, is permitted to order that a carpet be brought to the church for them; otherwise, they must immediately cease from divine matters, and

the ministers of the church, by this very act, incur excommunication.

[*Latin ed. p. 57*]

The provided text does not contain any Scripture quotations to be corrected. Therefore, the text remains unchanged.

They incur [excommunication], and the church is to be considered as interdicted. This decree was issued by the Sacred Congregation of the Council, which states: "Regarding a certain abuse presented to the Sacred Congregation of the Council, among others who recently arrived in the city, the same Sacred Congregation, on August 30, 1701, decreed: It is not permitted for anyone (except for royal persons) to bring straw mats to the churches; otherwise, they must immediately cease from the divine services; and if this is not observed, the pastors and other ministers will, by this very act, incur excommunication, and that church shall be considered as interdicted." This is noted in the bullarium of Clement XI, page 3, decree 1, concerning the Council. Then it is added: "And after a report was made, his Holiness (that is, the aforementioned Clement) approved the decree, and also ordered it to be promulgated and put into effect, and to be affixed in all the city's sacred places, on October 3, 1701." All of this is reported by Ferraris (library, volume 3, article "Ecclesia," numbers 28 and 29), who also reports there that, according to several decrees of the Holy Roman Church, it is forbidden for laypersons (even if they are officials) to kiss the Gospel during Mass, as well as to allow them to use the baldachin, and to admit them to assist in the sanctuary. Returning to our subject, we say: 38. It is sacrilege to forcibly remove a person from the church, even if it is interdicted.

[*Latin ed. p. 58*]

Polluted [places], and the cemetery, atrium, cloister, dormitory, and the adjoining area connected with the church: also, the enclosures of religious houses, separated by walls. See Salm., *Tractatus*, 18, chapter 3, number 81. Furthermore, besides this case of violated immunity, for incurring the species of sacrilege, the term "sacred place" is understood to refer only to the church, and not to other places; and a strict interpretation must be made, as noted by Elb., *De Sacrilegio*, number 566, with Laynt., Bon., etc., 39.

The question is asked: whether every theft within a church constitutes sacrilege. The first opinion, with Lugo, *Decreta*, 16, number 470, Tamb., *In Melchior Caninius Confutationem*, book 2, chapter 8, Pal., Azor., Dian., Less., Con., Hemr., etc., apud Salm., *Tractatus*, 6, chapter 8, number 103, holds that it is not sacrilege, unless the theft involves something belonging to the church, or something entrusted to its custody; for other profane things are indeed taken materially within the sacred place, but not *from* the sacred place, since they do not in any way pertain to the sacred place.

However, Lugo, in the aforementioned passage, makes an exception for the theft of things which the sacristan had arranged to be used for the adornment of the church.

The second opinion, which is more probable, affirms from chapter *Quisquis*, question 4, that he who does not steal something sacred *from* a sacred place is absolutely condemned as a sacrilegious person; and this is not limited only to deposits. Thus, Elb., number 587, with Fill., Val., and Salm., *Tractatus*, 6, chapter 8, number 103, with Pal., Dic., Vasq.,

[*Latin ed. p. 59*]

Bonifacius, de Laicis, etc. Tamen Salmerius recte probat sententiam primam. Atque utrum sit sacrilegium furari ex sacristia, Sanchius, de Matrimonio, lib. 15, cap. 13, contra quosdam negat. Certo autem non est sacrilegium furari in claustris, nec in oratorio domus privatae. In oratoriis vero xenodochiorum vel eremitoriorum, licet non benedictis a Episcopo, iuste putat Sanchius, furta esse sacrilega. Vide Viva, de loco, n. 13, 40, "3". Tertio, sacrilegium reale est indigna tractatio et administratio sacramentorum, ut si ministrentur vel suscipiantur cum peccato mortali. Item profanatio vasorum et instrumentorum sacrorum: exempli gratia, si quis calice utatur in convivio, ornamenta altarium vel sacerdotum ad usus profanos applicet; intellige de iis quæ consecrari vel saltem benedici solent: nam ad nuptias vel communem usum adhibere tapetes, candelabra, pelvim, imo et manutergium et cætera quæ mediate serviunt ministerio sacro non esse peccatum docet Tomasius, expeditas sacr., lib. 1, cap. 2, nisi fiat ex aliquo contemptu, saltem implicito, ut si semper et indifferenter sic utaris supradictis. Et idem affirmat de candelis, ramis, aqua, incenso et similibus benedictis, quod in modicis istis benedictionibus non agatur cum tanto rigore ab Ecclesia, ut patet in pane, ligno, carbonibus etc. benedictis.

[*Latin ed. p. 60*]

See the aforementioned passage, § 3. Also, the violation or unworthy treatment of sacred images and relics. Also, the misuse of Holy Scripture, for example, to establish heresies or scandalous things. Also, the seizure of Church property, the suppression of pious bequests, or the defrauding of Church rights, etc. See Fill., tr., 24, c. 9; Reg., lib. 19, n. 57; Suar., "De Concilio Tridentino," sess. 4, in fine, which calls it temerity to twist the words of Holy Scripture into vulgar, fabulous, vain, flattering, or detracting things. See Salm., cap. 12, n. 82, 41.

The following is questioned: 1st, whether sacred vessels and vestments can be converted to profane use. Salm. affirms in tract. 21, cap. 12, n. 32, if they have already lost their form and blessing. But elsewhere, in cap. 10, n. 145, he entirely denies this, as does St. Thomas, who in p. 3, quæst. 83, art. 3, ad 3, and in cap. 39, dist. 1, says: "Palls, veils, candelabra, chairs, and other things that have been in the sacristry should not be admitted to the use of

the laity, but should be burned." However, Suar., p. 3, d. 81, sect. 8; Pal., tom. 2, tract. 3, d. 1, p. 6; Bon., d. 3, quæst. 1, p. 4; and Ronc., de I. præc., cap. 1, qu. 7, with Barb., distinguish and say that if a thing is so totally changed that it returns to common matter, such as if a chalice is reduced to a common mass of silver by fire or iron,

[*Latin ed. p. 61*]

Then it is permissible to convert it to a profane use. Thus, according to Bonaventure, Palearius, Suarez, and Baur, unless it is entirely dissimilar. Therefore, it is not permissible to repair profane garments from an old chalice, and this applies because of what St. Thomas says above. Therefore, some say that it is not permissible to sell or pawn such garments for profane uses. See Salmeron's Dictionary, chapter 10, numbers 45 and 42.

Question 2: Is the damage to any ecclesiastical goods sacrilege?

Answer: Negatively, but only to goods that belong to the adornment of the Church or are designated for the support of the ministers, as St. Thomas says in 2-2, question 99, article 3. By "for the support of the ministers," understand those that are such, as Tamburini rightly says in his Decrees, book 2, chapter 6, section 3, number 9.

Question 3: Is it sacrilege to unjustly withhold legacies left to the Church for its service?

Answer: Lessius affirms this in book 1, chapter 16, number 30. But Tamburini denies it in his Decrees, book number 10, along with Palearius and Salmeron, chapter 10, number 35, etc., because, until such goods are possessed by the Church, they are not sacred.

Question 4: Is it sacrilege not to pay tithes?

Answer: Lessius affirms this in book 2, chapter 16, number 18, and Elbing in number 56g, along with Valois, Sporer, etc. But Croix denies it in book 3, page 1, number 52, and Tamburini in his Decrees, book number 11, along with Palearius; however, they say that it is a graver sin of irreligion.

[*Latin ed. p. 62*]

Because the payment of tithes is ordered in recognition of the divine dominion. 45. It must be noted that the sanctity of a place is not violated by mere internal acts; therefore, he does not commit sacrilege who has the intention of killing a man within a church, provided that the act is not carried out. Conversely, if someone outside the church intends to kill within the church. Thus, Salm. cap. 12, n. 28, along with others. Palaus, tract. 17, d. 2, p. 2, holds that to omit the sacraments at the due time is sacrilege. However, it is more likely denied, but it is said to be a sin against obedience due to the Church. Salm. cap. 12, n. 58. 44. Furthermore, it must be noted that the censures against sacrilegious persons are not incurred by the very act itself, unless by those who strike a cleric, and also by those who violate ecclesiastical immunity, by imposing taxes, seizing property, and by those

who desecrate churches and simultaneously plunder sacred things, according to c. Conquest. 22, de sent. excomm. See Salm. n. 24. However, it is more likely that those who set fire to churches are not excommunicated by the very act itself, as Salm. n. 40, with Caj., Silv., Nav. 45. A grave sacrilege is committed by one who steals a relic, even in a small quantity, if he knows that this will greatly sadden the owner. Thus, Leand., Prad., Nav., Mol., apud Salm. tract. 21, c. 10, n. 108.

[*Latin ed. p. 63*]

46. It is inquired whether time itself is the object of sacrilege, that is, whether one sins sacrilegiously on a feast day, etc. Lugo, *de ben.*, book 1, chapter 16, number 523, and Salm, chapter 12, number 36, deny this, as do Lessius, Palearius, and Tamini, *met.*, book 2, chapter 7, section 5, number 40, unless a notable irreverence is shown towards divine worship, such as if someone were to present comedies or public games on the feast day of a saint.

47. It is inquired whether the violation of a vow constitutes sacrilege. Tamini, with Suarez, *dec.*, in the aforementioned place, numbers 12 and 13, and Palearius, *tract.*, 17, book 2, page 3, section 2, deny this. They say that it is a sin of perfidy, or against the fidelity owed to God, as Croix, book 3, page 1, number 55, states, with Tamini in the aforementioned place, number 13. However, St. Thomas affirms, 2-2, question 99, article 3, ad 3, and following, and Salm, chapter 12, number 22, that he who violates a vow more probably commits sacrilege. See Elbing, number 584.

48. "4th. One also sins sacrilegiously by an omission, for example, if things pertaining to the sacrifice are very impure, such as the corporal and similar items. Bonaventure, *de euch.*, (Qui, page 9, number 23, with Fillon, Suarez, Regius, etc., says that it is mortal. See book 6, number 384.)"

49. 5th. In confession, the species and the matter of the sacrilege must be expressed. The reason for the former is that it often involves a divided malice, for example, striking a priest and committing fornication with the same person. The reason for the latter is that even the matter...

[*Latin ed. p. 64*]

Sometimes it increases and adds to the wickedness; for example, if it is against the Eucharist, according to Gordon, it adds another sin against sacrilege to the common violation of the sacred thing. However, it is not permitted for women and laypersons to touch with bare hands the chalices, patens, altars, waxen hosts, etc., which have been anointed with chrism. (It is permitted, however, even for clerics of the first tonsure, as Tamb. ibid. no. 11, states, citing Suar.). Nevertheless, if they are empty, it is not mortal sin; and if there is no just cause, it is not venial, according to Suar., Tamb. in loc. §. 1; but Suar., Coninch., and others commonly teach that it is venial if there is no just cause; although Tamb. in loc. cit., following Sa, considers

the opposite to be probable. (With Scotus and Bartolus of Angleria; but Sa, in Tamb. and Sot., Henr., Sanch., Fag., and Tamb. apud Pasq., as Croix reports in book 6, p. 2, no. 385, believes that there is no sin at all. For nuns, however, there is a privilege, as Salm. cap. 10, no. 132, states.) Thus, even if the corporals or purificators are washed by them (see book 6, no. 385), other things which do not immediately touch the Eucharist and are not anointed with chrism, such as cloths and vestments, may be touched by all. Suar., Laym., Tamb. in loc. cit., where, citing Pal., etc., he grants the same regarding relics; just as if they have the same relics enclosed in a receptacle, or if laypersons carry them in public processions. He teaches the same with Laym. regarding the pyx.

[*Latin ed. p. 65*]

Or, the ciborium and lunula when they have not yet contained the sacred Eucharist. The same applies to corporals, palls, and purificators when they are soiled after sacred use: according to Layman and Bona, indeed even before being soiled. Layman, Tamb. in loc. cit.

THIRD DOUBT. CONCERNING SIMONY.

ARTICLE FIRST. WHAT IT IS AND IN HOW MANY WAYS IT OCCURS.

49. What is simony, and in how many ways does it occur?

50. Can a small amount of material be involved in simony?

51. When is it simony to give something temporal for something spiritual?

52. Is it simony to give a benefice to someone so that he may support himself, or solely out of friendship or for prayers?

53. Is it simony to enter into a contract involving a monetary obligation?

54. Is it simony to give something spiritual primarily for something temporal?

55. Is it simony to receive something for the administration of the sacraments, and is it primarily for the purpose of obtaining a temporal profit from them?

56. What is understood by "a gift from the hand"?

57. Is it simony to give a loan in exchange for a spiritual favor?

58. Is it simony to pay a pension for a benefice?

59. Is it simony to give something so that another may provide a spiritual service for oneself, the recipient?

60. Is it simony to give a benefice with some spiritual obligation attached, or to resign or present it with an obligation?

61. What is understood by "a gift from servitude"?

62. Is it simony to serve in exchange for a benefice?

[*Latin ed. p. 66*]

63. What is understood by the term "gift" concerning the tongue.

64. Whether it is simony to give something to an intermediary in order to obtain a benefice for oneself.

65. What is meant by an "intermediated" intermediary.

66. What if one promises to give alms to a certain monastery.

67. What is simony that is mental, what is conventional, and what is real.

68. What pertains to divine law, and what to human law.

69. Whether simony pertains only to human law.

70. Whether the sale of benefices is simony according to divine law.

71. Whether the sale of the right of patronage is simony, and whether it pertains to divine law. Whether the sale of the right of burial is simony.

72. Whether benefices can be exchanged.

73-76. How a benefice can be exchanged for a pension, and by whose authority. And whether bishops can establish pensions.

77-80. How it is permissible to make arrangements concerning benefices.

81-84. How renunciations of benefices can be made.

85-90. What is considered secret simony, and what are its penalties.

91. How simony can occur in relation to entering a religious order.

92. Whether it is permissible to receive something for the support of one who is about to enter.

93. Whether it is permissible for catechizing, etc.

94. Whether it is permissible for instructing someone in sacred doctrine.

95. Whether it is permissible for absolution, etc.

96. Whether it is permissible to give something in order that another may omit a spiritual duty.

97. Whether it is permissible to redeem a vexation.

98. Whether money can redeem a vexation concerning the possession of a benefice.

[*Latin ed. p. 67*]

100. What if the right to the thing has not yet been acquired? What if someone were to corrupt the electors, so that they would not choose you?

101. What if someone were to hinder you solely through prayer?

102. Is it permissible to give money so that another might oppose your election?

103. Is it permissible to do so in order to prevent the election of an unworthy person, or to secure the election of a worthy one? Or in order to

prevent someone from concurring in a benefit that you desire?

104. See other passages in Busemb. 49.

RESPONSE: Simony is the deliberate will to buy or sell, for a temporal price, something spiritual, or something attached to something spiritual. St. Thomas [Aquinas], 2-2, quaest. 100, art. 1; Layman, book 4, treatise 10, chapter 8, etc. It is said [to be simony] in two ways: 1. By the will to buy, etc., with which words any burdensome contract, whether of sale, or lease, or exchange, or renunciation, is understood; because simony does not exist without some tacit or express agreement, and an obligation arising from the agreement. I add that any natural obligation, such as gratitude or a debt, is not sufficient; for example, when someone merely hopes or intends, but does not obligate himself. See Simony. The reason is that it does not constitute a contract. See Bonaventure, *De Simonia*, d. 1, quaest. 6, p. 1; Lessius, book 2, chapter 35, d. 20. (But see the remarks in number 54). It is said 2. For a temporal price: whether it be a gift, or a service, such as praise, blame, or patronage.

[*Latin ed. p. 68*]

or of obedience and service. It is called the 3rd spiritual [good]; by this name is understood that which is supernatural and ordered to salvation, whether it be formally such, as are grace and the gifts of the Holy Spirit; or causally, as are the sacraments, the sermon, prayers, and sacramentals; or whether it be the effect and use of supernatural power, such as consecration, absolution, dispensation, blessing, excommunication, election, presentation, confirmation, the granting of a benefice, and other acts of ecclesiastical jurisdiction. It is called the 4th spiritual [good], in order to comprehend those things which are not themselves spiritual, but which are ordered to them, and to which they are attached, either antecedently, as the right of patronage with respect to a benefice, or sacred vessels and vestments with respect to the sacraments; or concomitantly, as labor in the administration of the sacraments, according to the meaning to be explained below; or consequentially, as the revenues of benefices, which are given for the sake of spiritual office. Hence, it is clear that the malice of simony consists in the irreverence committed, when spiritual things are valued with a temporal price and subjected to contracts; and that it is a mortal sin by its very nature, and cannot be made venial by the lightness of the matter: because no gift of grace, however small, can be sold without grave irreverence, both to the gift itself and to God. However, it can be venial, due to the imperfection of the act and ignorance. Suar.

[*Latin ed. p. 69*]

"T. 3, de rel. lib. 4, cap. 36; Azor., Fill., Laym., loc. cit.; Less. lib. 2, cap. 35, d. 1."

"Simony, however, is fourfold: mental, conventional, real, and confiden-

tial. Mental simony occurs when someone gives something temporal with the intention of obligating the recipient to render something spiritual (or vice versa), but without any other agreement. Conventional simony occurs when an agreement is present, but it is not fulfilled by either party. Real simony occurs when the agreement has already been fulfilled. Confidential simony, finally, can occur in three ways: through access, through regress, and through ingress. It is said to occur through access when someone promises a benefice to another with the agreement that the recipient will then resign it and transfer it to a third party. It is said to occur through regress when one reserves the right to reclaim the benefice at a later time. It is said to occur through ingress when one resigns a benefice that has been conferred upon oneself, but not yet possessed, with the agreement of taking possession of it at a certain time or under certain circumstances. See below, nos. 85 and 86, where a more detailed discussion of this type of confidential simony and its penalties will be found.

50. The question is raised: Can there be a small amount of matter in simony? Regarding simony under natural law, the common opinion is negative (cf. Salm., tract. 19, de simon., cap. 1, no. 8; Croix, lib. 3, p. 1, no. 195, with Suar., Sanch., etc., against Mol., Reg., etc., ibid.). However, regarding simony only under ecclesiastical law, Navarrus holds a different view."

[*Latin ed. p. 70*]

(Wherein Croix seems to adhere, book 4, number 682.) They probably teach that a small amount of matter can be given. And Croix assigns a distinction, because, when a temporal thing is not received as a price for a spiritual thing, but the acceptance is prohibited only to avoid the appearance of simony, then the spiritual thing itself is not injured, but only a sin is committed against the precept of the Church, in which, certainly, a small amount of matter can be present.

51. The question is raised: 2. Whether it is always, or rather, never, simony when a temporal thing is given for a spiritual thing. The first opinion affirms this, with Azor, Durand, Adrian, etc., as cited by Salm, treatise 19, on simony, chapter 1, number 26. The second opinion, which is held by Salm, ibid., number 52, and is called "common" by Cajetan, Sanchez, Suarez, Lessius, Laetus, Tollet, etc., denies this, when it is given freely, even if with the intention of enticing or obliging (not strictly out of justice, but only out of gratitude or benevolence) another to return the spiritual thing for the temporal thing, or vice versa; so that the obligation of gratitude or benevolence is primarily intended, and the return is less so; and they prove this from chapter "Quam pio," 2nd question, 2nd article. And this, even if the return is offered in the same act, as from chapter "Placuit," 1st article, etc., "Dilectus," 2nd question, 1st article. From this, they say it is permissible to give something to a bishop, or to serve him (to whom you

would not otherwise be serving), so that, out of gratitude, he might...

[*Latin ed. p. 71*]

It confers a benefit; provided that there is no agreement, as stated in Salm's *Dictiones*, chapter 1, numbers 55 and 56, along with Soto, Suarez, Valentia, and the common opinion, and provided that you do not serve in such a way that the bishop confers the benefit upon you as a price for your obedience, as the learned Elbing rightly notes in *De Simonia*, number 617. Conversely, if you serve primarily to capture the bishop's favor and secondarily to obtain the benefit, you do not commit simony, even if, after the hope of the benefit is removed, you would not serve, as stated by Salm in the aforementioned passage, along with others; and even if you express such a hope explicitly, as Valentia, Paleario, Soto, Rodriguez, etc., add in Salm, number 56, at the end: because, as they say, it is permissible to ask of another that which he is naturally obligated to provide. However, Mazzarelli rightly warns in *De Simonia*, volume 2, section 2, page 219, and Croix, along with Suarez, in book 3, page 1, number 74, that this must be avoided due to the danger of a pact or, at the very least, scandal, especially if something is given at a time when the conferral of the benefit is being considered. Furthermore, Roncaglia rightly points out in *De Simonia*, chapter 1, question 5, and Salm himself, number 57, along with Sanchez, Bonaventure, etc., that when another title is lacking, namely, a stipend, the removal of unjust vexations, etc., and something is given solely with the intention of obtaining a spiritual benefit, then the intention must be presumed to be, at least virtually, simoniacal, namely, a commutation.

[*Latin ed. p. 72*]

The temporal must be considered in conjunction with the spiritual; unless the contrary is established, or otherwise inferred from the circumstances, such as the smallness of the benefit, the piety, or the nobility of the giver, etc. And this is evident from chapter *Tua nos*, concerning simony, where the pontiff, speaking of one who donated his goods to the Church, requesting that he be admitted to a canonry, and of the canons admitting him, says: "However, if those who make such a donation are led by the intention that through temporal goods they may attain spiritual benefits, and if the clerics who admit him as a brother would not admit him unless they perceived temporal advantages, then undoubtedly both these parties are to be judged culpable." See what is said in number 54. And it cannot be excused from mental simony (as rightly observed by Ronc. in the cited passage, rule 6, and Elb. de sim. number 619), the one who would serve the bishop freely, with the intention of obliging him out of gratitude, even if not out of justice, to repay the benefit, as will be said shortly in numbers 53 and 52. However, the bishop is not to be condemned for simony who confers a benefice upon a cleric in recognition of the service rendered, as

Elb. number 619 and Croix number 75 state, with Suar. Furthermore, if a bishop confers a benefice freely upon someone, so that he may maintain himself honorably, it is not simony; Croix, book 3, page 1, number 83, with Less, Laym., etc. Indeed.

[*Latin ed. p. 73*]

A collation [i.e., ecclesiastical benefice] conferred upon an unworthy person; solely on the basis of kinship, friendship, but freely, is indeed illicit, but not simoniacal. Thus, St. Augustine, chapter 1, paragraph 38, along with Cajetan, Suarez, Paley, etc. Furthermore, the *Summa Theologica* 2-2, question 100, article 5, ad 2, states: "To give something spiritual for the sake of any carnal affection." Therefore, this does not pertain to a contract of sale, upon which simony is founded. However, does a bishop commit simony when he grants a benefice to an unworthy person due to the prayers of another? It seems universally affirmed by the *Summa Theologica* in the aforementioned passage, ad 3, because it appears that the bishop is doing this to acquire human favor: thus, the Saintly Doctor says: "It seems to be primarily intended for this [i.e., to acquire human favor] by him who grants prayers offered for an unworthy person." And indeed, this should be said if he truly grants the benefice to obtain such favor; indeed, as the Angelic Doctor rightly adds, this will be simony, even if the cleric is worthy of the benefice. However, speaking absolutely, Elbing in *De Simonia*, number 612, La Croix, book 3, page 1, number 84, and Layman, book 4, treatise 10, chapter 8, number 26, along with Lessius, Suarez, Navarrus, Cajetan, etc., probably state that a bishop does not commit simony who grants a benefice to an unworthy person due to the prayers of another, but without any regard for acquiring human favor; because truly, in such a case, no sale of spiritual things takes place.

[*Latin ed. p. 74*]

Temporally. But that which La Croix and others say, namely, that it is not simony if it is done to free oneself from some unjust damage, I consider to be entirely unacceptable, for although the damage may be unjust, there always seems to be some exchange of a spiritual thing with a spiritual benefit.

53. The question arises here, in the third place, whether to draw up an agreement involving a monetary consideration constitutes simony. Hurt, Coelest., Ronc., etc., deny this, according to Diana, part 6, treatise 7, rule 42. Also, Diana herself, Vidal, and Jo. de Soria, although in part 3, treatise 2, rule 64, they do not approve of this in the aforementioned sense. Their reasoning is that simony is not considered to be committed when a pact is made regarding an obligation of gratitude that already exists. Therefore, they say, if it is permissible to obtain something spiritual out of gratitude when someone performs something temporal, it will also be permissible to

include it in a pact.

But it must be affirmed, in accordance with the common opinion held by Laym., treatise 10, chapter last, section 2, article 9, Viva in proposition 45, Innocent XI, number 2, Elb. de simon., number 596, and Suar., Bon., Fill., Cov., and others, according to Salm., treatise 19, chapter 1, number 64. The reason is that a new obligation is introduced by that pact. However, Salm. distinguishes, in chapter 1, numbers 66, 67, and 68, between himself and Val., Caj., Pal., Less., etc., and says that if the pact does not add a new obligation beyond the monetary consideration, for example, if one gives or...

[*Latin ed. p. 75*]

Promising another person money, so that he may be obligated to remunerate you in kind, is not simony, because no new burden is imposed. Similarly, if one requests something spiritual freely, without strict obligation, as is often the case when those who frequently give alms ask for the prayers of the poor; and in this matter, all agree, even the authors of the second opinion. However, they differ in their judgment if the agreement added a new obligation; and this would be the case when a specific spiritual thing is requested in exchange for something material given; unless another title intervenes, namely, a stipend, compensation for damages, etc., as will be explained below. But this distinction does not appeal to me in any way; for (as Viva rightly argues in his work, and Ronc. de sim. c. 1. q. 5. at the end), an agreement always carries with it at least a new obligation of fidelity, which, since it is of some estimable value, certainly makes the agreement a simoniacal one. Therefore, in chapter "Qua in pio," chapter 1, question 2, it is said: "Let all pacts be banished, let all agreements cease." For in this matter, any agreement, however burdensome, is simoniacal, even if it does not strictly obligate by justice. The same must be said of such an agreement in a contract of loan, as Viva proves in proposition 42. Furthermore, it should be noted, as Viva states in the aforementioned proposition 45, number 3, and St. Thomas in his *Quaestiones*, 13th question, article 4, that it is permissible.

[*Latin ed. p. 76*]

To demand from the lender that he fulfill his ecclesiastical obligation (understand always without a pact, and also, if that fulfillment is demanded, and not a promise, because, if a promise is requested, a new obligation of fidelity would also be sought, as we said before, which is still illicit in the case of a loan), because the lender gives what is his own: however, it is not permissible to demand that he give something spiritual, precisely because of its very reception; for he does not render what is his, but what is Christ's. Therefore, while some gratitude may be exercised towards the giver of a spiritual thing because of his benevolent intention, it cannot be exercised

as a free compensation for the spiritual thing itself.

4. It is asked: Is there a mental simony in giving a spiritual thing primarily for a temporal thing, or the contrary? Soto, Vallensis, Cajetan, Sanchez, Lessius, and Layman, among others, deny this, as stated by Salmeron, *Tractatus de Simonia*, book 2, chapter 19, number 59. But it must be affirmed, and Salmeron rightly asserts that the opposing opinion was condemned by Innocent XI in proposition 45, which stated: "To give a temporal thing for a spiritual thing is not simony, when the temporal thing is not given as a price, but only as a motive for conferring or effecting the spiritual thing, or even when the temporal thing is merely a free compensation for the spiritual thing." And proposition 46 also applies, even if...

[*Latin ed. p. 77*]

Let the temporal be the principal motive for giving something spiritual, indeed, even if it is the end of the very spiritual thing itself, so that it is valued more than the spiritual thing. This is rightly condemned; for, although it is said there that the motive is not the price, and it is certain that simony is not committed unless the sale of a spiritual thing intervenes; nevertheless, there the motive is truly the same as the price. For when, as rightly noted by Viva in *dict. prop.* n. 6 and Salm. c. 2, n. 58, something purely spiritual is given, such as the sacraments, benefices, etc., principally for the sake of a temporal thing of great importance (unlike if it were of little importance), which is morally capable of perverting the will of another, then the spiritual thing is given with difficulty entirely freely, but in practice it is given with some implicit agreement to impose a new obligation on the other; and thus the motive is virtually converted into a price. And this is evident from the very *dict. prop.* 46, where it is added *in fine*: Indeed, even if the temporal is the end of the very spiritual thing itself, so that it is valued more than the spiritual thing.

Quaestio 5. Whether it is permissible to receive something for the administration of the sacraments. *Responsum*. 1. It is simony to receive money in the administration of the sacraments, and other spiritual functions, as a price for the sacred thing or for the intrinsic labor in those actions. *Lic. Theol. Mor. T. III. D*

[*Latin ed. p. 78*]

Requirements. Otherwise, if the labor is external, for example, if a priest is obligated to celebrate with singing, or at a certain hour or in a particular place, and so forth. Thus, Roncatius, *De Simoniis*, chapter 2, question 2, page 208, and Salmeron, chapter 2, number 19, along with Cajetan, Soto, Lessius, Sanchez, Palotti, Tolosa, and others, commenting. Response 2: It is not considered simony to receive money, not as a price, but as a stipend for sustenance, even for labor expended in such ministries, because everyone

who works for the benefit of another ought, by justice, to be supported by that person from that work, according to Luke 10:7: "The laborer is worthy of his reward." Thus, the Doctors also say, as in Anacleto, *De Simonia*, question 3, number 28; Cabassola, *Theologia Moralis*, book 5, chapter 5, number 14; and Suarez, Lessius, Tolosa, Sanchez, and others, in Salmeron, number 21, with Saint Thomas, 2-2, question 100, article 3, who teaches thus: "To sell what is spiritual in such acts, or to buy, is simony. But to receive, or to give, something for the sustenance of those who minister, according to the order of the Church and an approved custom, is permissible." These customs are found to be approved in chapter 12, concerning prebends, and in chapter "Ex his," reason 12, question 1. And this applies even if the minister is wealthy from his own or ecclesiastical possessions, as the commentators say, Roncatius and Salmeron, *loc. cit.*, with Suarez, Lessius, Sanchez, etc., and especially Saint Thomas in *Quodlibet* 7, article 10: because, as he says...

[*Latin ed. p. 79*]

Ap. 1 Corinthians 9: "No one who serves as a soldier becomes entangled in worldly affairs." Therefore, it is permissible to make agreements concerning such a stipend, provided that the agreed-upon amount does not exceed the established rate or custom, as stated by Roncatius [of Patti] ibid. with Layman, Palearius, Guttierrez, and Salmantinus, number 22, with Suarez, Tollus, Sanchius, and others, throughout. Nor does this contradict the canons "De pactis" [Concerning Agreements] and the canon "Si nos" [If we]. For, concerning similar matters, if any agreement is made in spiritual matters, these passages must be understood either as referring to dishonorable agreements, as Roncatius states with the Gloss on the last chapter "De pactis"; or, as Lessius asserts in book 2, chapter 35, number 99, with Soto, these passages are superseded by the contrary custom, as he demonstrates from the last chapter "De pactis."

Question 6: Whether it is likewise simony to celebrate Masses, administer the sacraments, assist in the choir, preach, and similar acts, primarily for temporal gain.

The first opinion, which is also held by Viva in the aforementioned proposition 45, number 7, and by Cardenius with others, according to La Croix, book 3, page 1, number 60, from St. Thomas, who in the Quodlibet 8, article 11, says that he who goes to church primarily for the sake of distributions commits a mortal sin of simony; unless he intends God primarily and the distributions secondarily. Therefore, it is ordinarily held that those who celebrate Mass for mortal gain commit simony.

However, the second opinion, which is more probable, is held by

Salmantinus in "De simonia," chapter 1, number 60.

[*Latin ed. p. 80*]

Suarez, *Disputationes de Religione*, tract. 3, lib. 4, cap. 44, n. 11; Palearius, *Tractatus*, 17, d. 4, n. 3; Coreglia, *Disputationes in D. Prop.*, 45, cum Soto, Dionysius, etc.; item Sanchez, Silvestri, Concordia, Maldonatus, et alii, apud Croix, *loc. cit.*, num. 62, dicunt simoniam intervenire solum quando aliquid temporale accipitur pro pretio spirituali, aequando unum cum altero; non vero quando accipitur tanquam stipendium ad sustentationem ministri, qui prædicta officia exercit: quod stipendium debetur ex necessitate, ut Elibanus, num. 621, cum Layman et Palearius. Croix, *d. n.* 62, recte sic arguit: "Si quis dat stipendium principaliter propter Missam, quae certe res spiritualis est, num dicitur simoniacus?" Sic vice versa, neque simoniam committit, qui dicit Missam principaliter ob stipendium. Illicitum enim non est, ut notat cum Navarrus et Suarez, ordinare rem spiritualem etiam principaliter, ad finem temporalem honestum. Nec obstat propositio 46, Lyranus: "Etiamsi temporale sit principale motivum dandi spirituale." Ibi enim, ut diximus in quaestione praecedente, motivum accipitur per idem ac pretium rei spiritualis. At in casu nostro, temporale accipitur ut stipendium non rei, sed personæ occupatæ in gratiam alterius, cui debita est sustentatio, ut supra declaratum est. Nec etiam obstat quod ait Sanctus Thomas in citato *Quodlibet*, 8. Nam advertere oportet quod in nostro casu...

[*Latin ed. p. 81*]

Profit can be intended in two ways: either as the end of the action, or as the end of the one acting. When profit is intended as the end of the action, that is, when the spiritual work itself is intended to be sold, then certainly simony is committed; and thus the Saintly Doctor is to be understood (as they say in Salm. n. 61), when he says: "And therefore, he commits simony who intends to sell such an action." If distributions are received, as if the end of his action is principally intended thereby. Otherwise, it must be said that when profit is intended as the end of the one acting, that is, in proportion to the operation of the person occupied in bringing about the grace of another; because then the profit is received as a salary for sustenance, and it is not simony. Hence, they say in Salm. c. 2, n. 32, that it is licit for an economist to receive a salary from a parish priest for performing his duties. They also say in n. 15, with Suarez and Layman, that, although it is simony to give money to a poor person so that he may apply the petition or satisfaction of his prayers for oneself, it is nevertheless licit to give so that he may pray for oneself, in the manner of a stipend. This, however, is explained differently in D. Th. 4, p. d. 25, q. 3, art. 2, q. 2, which says: "He who gives money to the poor so that they may pray for him does not buy a prayer, but gives to entice them." Furthermore, those who perform sacred

ministrations principally for temporal gain can scarcely be excused from venial sin, since there is a certain disorder in doing so.

[*Latin ed. p. 82*]

Spiritual goods are exchanged for temporal goods, as stated in Psalm 60. Generally, Doctors of Theology, following St. Thomas, classify simony in three ways: as a gift received through the hand, through obedience, or through words, as found in chapter 114, question 1. We will examine each of these individually in section 56.

1. By a gift received through the hand, we understand money and any temporal thing that is estimable in price. Therefore, simony is to give a spiritual good with a pact, so that another may remit a debt, and also so that he may pay money already owed; because spiritual goods should be given entirely freely and without regard for temporal things. See Psalm 1, verse 24, in agreement with St. Thomas, Suarez, etc. It is also clear that lending money in the future constitutes simony. See Psalm 1, note 34.

57. However, it is questioned whether lending money, in order to receive a benefice, or another spiritual good at the same time, or conversely, constitutes simony. It seems that it does not. Just as lending with a pact that the other party obligates themselves to lend in the future would be usury, it would not be simony if, with a pact, the other party lends something to you at the same time; as is approved regarding loans in Psalm, on contracts, chapter 5, note 62, with Lessius, Villalobos, Daniel, etc., and as taught by St. Thomas, 2-2, question 78, article 2, ad 4. The reason is...

[*Latin ed. p. 83*]

For nothing of a temporal value is received beyond what is due. But in our case, such an agreement is entirely to be considered simoniacal, because here, simony consists in surrendering whatever is temporal for something spiritual. Thus, Viva in d. pr. 45, n. 3, and Salm. cap. 1, n. 36, are commonly held by Laym., Less., Bon., Pal., Nav., Fill., etc. 58. Question 2: Whether a pension, received from another's hand, is to be considered a benefit, namely, if a bishop, by granting a benefice to someone, agrees with that person that another shall pay him a pension. The answer is affirmative, because such an obligation is of a temporal value. Salm. cap. 1, n. 39, with Suar., Val., Tpl., and others. Therefore, it is certainly simony to make an agreement with someone, that if they help you to obtain a benefice, you will pay them a pension. See Salm. ibid. 59. Question 3: Whether it is simony to give something temporal under the condition that another perform a spiritual act, for the benefit of oneself, namely, if you promise a dowry to a girl, if she enters a monastery; or gifts to a young person, if they attend the sacraments. The answer is negative, because this is a simple donation, although under a condition, which, however, does not add an obligation. Salm. cap. 1, n. 49, with Suar., Less., Pal., etc. Otherwise, if a simple obliga-

tion were imposed, for example, to enter a religious order, as taught by St. Thomas, 2-2, qu. 10, art. 2, ad 4; or if the condition were of...

[*Latin ed. p. 84*]

By rendering some service to the benefactor, for example, if one were to enter a religious order in the benefactor's interest; then there would be a certain temporal exchange with the spiritual. Thus, Salm. ibid., no. 41, with Laym., Pal., and Suar. See the statements in nos. 91, 60. Question 4: Whether it is simony to give a benefice with the agreement that another should undertake some spiritual obligation. It is answered that if a burden is inherent in the benefice by right or by its institution, e.g., teaching, chanting, etc., or if a bishop, with the chapter, imposes some honest burden on a vacant benefice, e.g., assisting the sick, etc., certainly it is not simony, as Salm. states in chapter 1, nos. 42 and 43, following the common opinion with St. Thomas. It is doubtful whether a spiritual burden can be imposed on the beneficiary by one resigning or presenting for a benefice. Some affirm this in Sanch., cons., vol. 1, chapter 3, doubt 25, no. 6. But it must be said that although a reciprocal exchange of spiritual things is possible, e.g., "I will apply a Mass for you, so that you may apply for me in the morning," nevertheless, any agreement concerning benefices is simoniacal, according to Quam pio, 1, question 2. Thus, Sanch. in the cited passage, and Salm. 1, no. 44, with Suar., Bon., etc. 61. II. Following this is the "munus ab obsequio," by which is understood everything pertaining to service, such as serving, teaching, etc., to the end.

[*Latin ed. p. 85*]

To obtain something spiritual. Hence, simony consists in a prelate conferring a benefice upon a person in order that he may serve without pay, or in order that he may be compensated for the service rendered. And conversely, if a person serves in order to obtain a benefice in lieu of salary, this is also simony. Salm. cap. 1, n. 25 and 30, with Laym., Less., Suar., and the common opinion. From this, Salm. in d. n. 20, with Torre, rightly infers that bishops are undoubtedly simoniacs who desire to have servants serve them solely, or almost solely, with the hope of a benefice. However, it is noted in all the aforementioned cases that penalties are not incurred, nor is there an obligation of restitution, unless an express agreement exists between the parties, as per c. Mandatum, de simon., as will be explained below regarding penalties, n. 106, 62. However, whether a servant is a simoniac who serves a prelate without pay, but with the hope of a benefice, without any tacit agreement, is denied by Laym., Suar., Less., Sanch., etc., in Croix, n. 9. Indeed, Sanch. ibid. argues against Carden. and Pith. that it is not simony, even if one serves primarily for the sake of a benefice; but this must in no way be admitted, as stated above in n. 51 and 52. 63. III. Following is the service rendered by the tongue, by which are understood praises, favors,

intercessions, prayers, and the like, which are estimable in price. See Salm. cap. 1, n. 25. Hence, it is simony if a prelate grants a benefice to someone in order that he may praise him, favor him, etc.; or if...

[*Latin ed. p. 86*]

He says: "I will not grant you this benefice," unless such a person requests it from me, Psalm c. i. verse 31, as understood by Lessius, Layman, Bona, Suarez, and the common opinion, number 64. The question arises here whether it constitutes simony if one gives money to an intermediary, so that he may obtain the benefice or ordination for oneself. It must be said that if one gives [money] not for mediation, but for undertaking a task, or for suffering a loss, or for losing a profit, and if the money is clearly proportionate to these things, then it is not simony. Thus, Lessius, book 2, chapter 35, number 46; Croix, number 91; Salm, chapter 1, number 50, with Sanchez, Suarez, Paleari, etc. The same authors, Sanchez, Paleari, with Suarez, Mendoza, etc., say in Croix, number 93, if one gives money to a servant of the bishop, so that he may provide easy access, or if one gives it to him freely, so that he may remove obstacles out of benevolence: but the latter is very dangerous. Similarly, Croix, number 94, argues, contrary to Paleari, that it is not simony to give money to someone, so that he may inform oneself about vacant benefices: because this is very remotely related to the attainment of a spiritual thing. Nor, they say (although it is dangerous), Salm, number 51, with Bona, Paleari, Azor, Sanchez, Fillon, etc., is it simony if one gives money to someone, so that he may simply present one's merits to the bishop, because for simony to be present, it is required that the attainment of a spiritual thing be the immediate purpose of the payment of money; it is not sufficient.

[*Latin ed. p. 87*]

That which is a consequence of another thing immediately, without having any connection with that other thing, as Salm. states ibid. with Suar., Nav., and Garc. But it must be greatly feared that one might abandon the office of the informant and take on the office of the intermediary. Conversely, it must be said that true simony (even by divine law, as held by Salm. dict. cap. 1. no. 53, with Suar., Bon., Fill., and Sot. against Sanch. and Nav.) is present when money is given to a mediator, not freely to cultivate his friendship, from which his influence might help you, but with an agreement that he will intercede to obtain a spiritual benefit, extr. 2. de sim. where: Simony is committed when money is given for the granting... favor, or mediation. See Salm. d. cap. 1. no. 52 and 53. And I consider the opposite to be improbable, whatever Elb. no. 60q. and others may say. For although something temporal is given immediately for another thing that is merely temporal, as is the case with this intercession; nevertheless, you would thus prepare a way for yourself through money to obtain a spiritual

benefit, as St. Thomas states in 2. 2. quest. 100. art. 2. ad 5., and in our particular case, Croix, lib. 3. q. 1. no. 90, and Fill., Anacl. etc., apud Elb. n. 60B. 65. The question arises: Is it simony to give money to an intermediary, that is, so that he himself may intercede with another, who will obtain something for you?

[*Latin ed. p. 88*]

The benefit is from the one who bestows it. St. Alphonsus, *Homo Apostolicus*, Book 1, Chapter 5, paragraph 26, number 7. Vasquez and others believe it is probable that this is not simony (although they consider the opposite to be more probable). The reason is that money is given at that time for a temporal thing, through which, not immediately or directly, but remotely, a way is prepared to obtain the benefit. However, Diana, on page 10, line 4, reason 151, and Croix, in Book 3, page 1, number 90, say that the opposite should be followed; and Diana doubts whether the first case is probable, deferring to the judgment of the wise. And she rightly doubts, according to what was said above, number 66.

Thirdly, it is asked: Is it simony if you promise money to another, to be given by him as alms to a monastery or to the poor, if he obtains a benefit for you? Salm. d. c. 1. n. 54, along with Diana, Soria, and Rocafort, deny this. Understand that, if the money is given entirely freely and as alms, which already constitutes an honest title that excuses one from simony, just as the title of support, etc., excuses, as mentioned above, number 67.

Secondly, simony is threefold. The first is said to be mental, when nothing is given externally, or when something is given (and it is said to be mixed mental) with the intention of obligating the other to render something spiritual, without any external agreement. The second is said to be conventional, which pertains to...

[*Latin ed. p. 89*]

"The agreement proceeds externally without real execution; it is called pure if it consists solely in a mutual agreement; it is called mixed if it participates in both the real and the conventional, as, for example, if it is completed in reality only on one side, and this applies to simony of confidence, when one gives a benefice to another, so that he may resign it to him, or with the obligation of giving a certain part of the fruits. The third is called real, which is, indeed, completed in reality on both sides. See Lessius, loc. cit., d. 6, n. 68, n. 2. Simony is divided into that which is against divine law, and which is prohibited because of its wickedness; for example, to sell the consecrated Host, and that which is against human law, and which is evil only because of the prohibition, and is therefore prohibited by the Church: 1. The sale of benefices, according to what is temporal in them, namely, as regards the right to receive the fruits. 2. The sale of offices that are externally related to sacred things, such as the sacristan, the treasurer, the advocate

of the Church (namely, he who is specially appointed as advocate by the Church; add also the vicars and castaldi, or stewards, from cap. Si quis, c. Salvator, q. i. See Salm., cap. i., n. 13). 3. An obligation of money made to someone, so that he may persuade another to give a benefice. 4. An agreement to resign a benefice or to pay a pension, if the other obtains the benefice for you."

[*Latin ed. p. 90*]

5.º The exchange and resignation of benefices; also, the reservation of a pension from a benefice resigned, and in the case of the exchange of benefices, the equalization of fruits, etc., if these are done without the authority of the superior; but if they are done with such authority, they will be permissible.

6.º The acceptance of a gift, even one offered spontaneously; for the examination for the priesthood, according to the Council of Trent, Session 24, chapter 18; for the conferring of orders, for tonsure, and for letters of dismissal, according to the Council of Trent, Session 21, chapter 1. However, the tenth part of gold is excepted for the notary, if he has no salary, and custom permits.

7.º The demanding of money for admission to a religious order, not merely for the status itself (for this is spiritual and, therefore, not lawfully saleable by divine law), but also for the burden of support: unless the stability of the monastery or a contrary custom excuses this. See Layman, chapter last; Bonaventure, *Doctorum Communium*, part 1, questions 1 and 2; Lessius; Azorín, book 3, page 1, chapter 14.

69. It is questioned whether simony can exist according to human law, without it being simony according to divine law. Gonet denies this in his dissertation on probable matters, number 14, because, he says, men cannot in any way change the nature of things, so that what is not simony according to divine law can be simony according to human law. However, the opposite opinion is commonly held by Salm and Croix, book 3, page 1, number 57, with Suarez and Cardona, who rightly demonstrate that the Church can effect that something which is the material of one of its precepts can also be the material of another virtue, as is the case here with religion. See Croix, *loco citato*.

[*Latin ed. p. 91*]

But for a fuller understanding, we shall examine each point in the following questions.

Question I. By what right is simony the selling of benefices?

Some maintain that simony pertains only to ecclesiastical law (Nav., Man. c. 23, n. 108; Less. cap. 55, n. 19, with Adrian; also Garcia, Less., Panorm. etc., with Decius, who states that this is the common opinion of the canonists, according to Salm. cap. 2, no. 57, and Bonaventure considers

it probable). The reason given is that in benefices, two rights are said to exist: one pertaining to the exercise of spiritual functions of the order or jurisdiction, and this is certainly not alienable by divine law; the other pertaining to temporal revenues, which can be mentally separated, just as the value of silver and the consecration are separated in a chalice; and therefore, such a right is alienable only by positive law.

However, it is more probable (Cajet. t. 2, opusc. tr. 9, q. 1; Soto de just. lib. 9, quæst. 7, art. 1; Sanch. consil. 2, c. 3, dub. 24, n. 1; Palaus d. 7, p. 13, no. 3; Azor. p. 3, lib. 12, c. 11, quæst. 3; Laym. l. 4, tr. 10, c. 8, n. 44; and Salm. loc. cit., with Val., Vict., Led., Bon., Cov. etc.) that simony is a violation of divine law, according to D. Thomas (2-2, q. 100, art. 5), who teaches that one right is temporal, as in the chalice, which is previously attached to the spiritual; the other is subsequent, as in benefices, in which the right to

[*Latin ed. p. 92*]

The revenues, subsequently and thereby lawfully annexed, are inseparable from ecclesiastical offices, so that they cannot in any way be separated, since temporal right is essentially given for the sake of the spiritual office; thus, if the right to the revenues were considered separate from the right to the sacred office, it could no longer be called a beneficial right, nor a benefice, as is gathered from c. Si quis, q. 3, and from c. Et diligenti, de sim. From this, Salm. d. n. 59 infers that there is no dispensation in the sale of a benefice, even if it is obtained from the pontiff. However, they note in n. 63 that the Pope can rightly separate the right to the revenues from the right to the sacred office, and thus he can grant that the revenues be sold as merely temporal, or that some pension be imposed on the benefice by separating a part of the fruits thereof and giving it to another; and they confirm this in cap. 3, n. 30. And the same is taught by Less. lib. 2, cap. 35, n. 19, and Croix lib. 3, page 1, n. 123. Note here, by the way, that it has been granted to beneficiaries to lease the fruits of the benefice for up to three years, but not beyond. To lease tithes, however, would be simony. See Croix n. 124 and 125. Just as it would be simony to lease a spiritual thing, such as a chalice; although compensation may be made for the temporal detriment. Croix n. 156, 71. Question II. Whether it is simony to sell the right of patronage. We speak not of the civil right of patronage, but of the ecclesiastical one, which arises from...

[*Latin ed. p. 93*]

The Church grants [rights] to those who contribute to the construction or endowment of temples. This right, concerning the honors and benefits due to patrons, can be profitably sold, because, concerning these matters, it is not considered spiritual, as in Psalm 109, verse 75. It is doubtful whether the right of presentation to a benefice can be sold. It is answered that, if such a right is attached to a thing, the right is transferred along with the

thing to the buyer, as in *Summa Theologica* 2-2, question 100, article 4, ad 3: just as it can also be transferred by donation or by hereditary title. See Psalm, ibid., verse 76. Outside of these cases, such a right cannot be sold without simony, according to positive law, from chapter *De jure*, and chapter *Præterea extra, De jurepatr.* Hence, it is simony if the patron sells the thing for more because of such a right, or if he imposes a condition on the presented candidate, for example, that he litigate and prove the right to belong to that patron. Otherwise, as they say in Psalm, ibid., verse 77, at the *end*, when a dispute arises concerning the right of patronage, a condition is added that, if the presented candidate does not pursue his presentation within so many months, the patron may present another; because then he remains in his freedom, and is not obligated to prove the patron's right for him, but for himself if he wishes to obtain the benefice. Thus, Psalm, ibid., verse 77. But in this, I believe there is a great danger, that such a [right] is virtually sold.

[*Latin ed. p. 94*]

The presentation concerning expenses which, by right, ought to be paid by the patron. However, whether such a sale of patronage is forbidden even by divine law, Lessius, Palotius, Laymann, etc., affirm, as cited by Salm, in chapter 3, number 78; because such a right is a spiritual thing, since it proceeds from the ecclesiastical jurisdiction. Sanchius, Soto, Silvius, Navarrius, Torrejus, Decius, and others, on the contrary, whose opinion is given by Salm, ibid., numbers 78, 79, and 80, say that it is no less probable. The reason is that such a right is rather a temporal thing, since it is a temporal favor granted by the Church, insofar as the Church exercises not merely jurisdiction, but a political power, eminently contained within which is the distribution of temporal favors. It should be noted here that to sell the right of burial in a sacred place, for a more honorable location, is probably not simony, as Croix states in book 3, page r., number 185, with Barbatus, Burgensis, and Caramuel, against Suarius, etc., 72. Question III: Whether benefices can be exchanged. It is certain that in other spiritual things, besides benefices, exchange is permitted when the things are purely spiritual, for example, "I will say Mass for you, so that you will say so many rosaries for me, etc." However, when spiritual and temporal things are combined, a distinction must be made: for if temporal things are previously attached to spiritual things, such as silver...

[*Latin ed. p. 95*]

Chalices, reliquaries, and other similar objects can, in themselves, be properly exchanged or sold, provided that consideration is given only to their temporal value. Thus, *Summa Theologica* 2-2, quaest. 100, art. 4; Salmanticenses, cap. 3, no. 18; Elvensius, *De Simoniæ Nulitate*, no. 600, with Suarez and others. However, it must be said differently if temporal

things are subsequently attached to them, such as the fruits of benefices, in which any exchange is considered simoniacal and without the authority of a superior, not already by divine law, but by positive law, from the chapter *Quæsitum, De rer. permut.* Therefore, bishops can grant exchanges of benefices located within their dioceses, as *Summa Theologica* 2-2, q. 100, art. 1, *ad i.* from the decree *Universorum, De rer. permut.*, provided that the benefices do not pertain to the Pope, as stated in the decree *Extravagantes* of John XXII. And abbots can do the same, possessing the faculty of bishops, as stated by Salmanticenses, cap. 3, no. 21, with Suarez, Bonaventure, etc. However, this does not apply if someone has only been elected to a benefice, or if a dispute arises concerning the benefice. See Salmanticenses, ibid., no. 26. It is permissible for those who wish to exchange benefices to agree beforehand and even to obligate themselves to pay a penalty to the one who recedes, as stated by Lessius, book 2, cap. 35, no. 104, *in fine*: but this is dependent on the consent of the prelate; because then the obligation is only conditional. Salmanticenses, *dictis*, cap. 3, no. 27, with Sanchez, Palafox, Valdés, Suarez, Lessius, Layman, etc., from the decree *Inter cœt., de præb.*

[*Latin ed. p. 96*]

But it is questioned whether, without a subsequent change taking effect, they can, by their own authority, return to their benefices. Salm. c. 3, n. 28, denies this, along with Panorm. and Gomez, who cite several decisions of the Roman Rota in support of this view: because the one who renounces loses the title and possession of the benefice; therefore, to return, a new collation is required. However, it is also considered likely that the opposite is true, as held by S. Anton. and Silv., because that renunciation is conditional, if the prelate consents: therefore, if the consent of the prelate does not subsequently occur, it is entirely invalid.

73. Question IV. Whether a benefice can be exchanged for a pension. It should be noted that in this case, four things are required to acquire the pension, according to Less. lib. 2, c. 34, dub. 38, namely: 1st, that the one obtaining it be capable, that is, legitimate, not excommunicated, and at least tonsured. 2nd, that there be a just cause, e.g., to support a poor person, for the good of the Church, to equalize compensation; otherwise, the one obtaining it will not be safe in conscience, even if the Pope grants a dispensation, as Less. ibid. n. 204, with Tolet. and comm. Furthermore, whether the consent of the patron is also required, Less. denies with others, unless the benefice is resigned; in which case, mention of the patronage must be made. 3rd, it is required that the pension be moderate, so that it does not exceed one-third according to custom.

[*Latin ed. p. 97*]

part of the revenue of the benefice. 4. Therefore, a legitimate authority

must intervene, which certainly resides in the Pope. 74. With these points established, the following is questioned: 1. Whether bishops can establish pensions on benefices. They affirm this, as found in *Lessii, de canonicis*, book 3, chapter 34, paragraph 205; Gigas with Felin; Imola; Decio, etc., if a just cause is present, namely, to support an elderly and infirm parish priest, to settle a dispute concerning a benefice, etc., as is stated in chapters *Nisi esset* and *Audivimus* 3, concerning collusion; also, to equalize matters in the exchange of benefices, as found in chapter *Ad quæstiones, de rer. permutat.* However, others, along with Lessius, *ibid.* and Salm, book 3, paragraph 31, say that only the Pope can establish pensions, because such is the practice of the Roman Curia, which creates law. See paragraph 81, verse 2. Absolutely. But it should be noted here that 1. those who receive pensions, according to the bull of Pope Pius V, are obligated to recite the office of the Blessed Virgin Mary; otherwise, their revenues are not valid. See Lessius, *de canonicis*, book 3, chapter 34, paragraph 208. However, this is understood if the pension is clerical, in that it requires the tonsure, but not if it is purely lay, in which case the pension holder is not required to act as a cleric, but as a layperson, as held by Salm, *de benef.*, paragraph 64, with Azor, Navar and Palearius. Furthermore, this is understood if the pension holder is not a cleric in major orders or a religious; for if he were, he would be required to recite the greater office or other prayers.

[*Latin ed. p. 98*]

Regarding the precepts of his religion, he is not bound to a small amount. Thus, generally, Salm. ibid. with Azor., Led., Pal., Bon. etc. Note 2ndly, that when someone resigns a benefice with a pension in favor of a third party, he cannot demand a mortgage, a bond, or an advance payment from the pensioner, unless these are simultaneously approved by the Pope; because the laws prohibit all agreements concerning benefices that are not inherently part of them. Therefore, Less. ibid. n. 95, believes that in such a case, there is no obligation to pay the pension, and the benefice is vacant. 75. Secondly, it is doubted how a benefice can be exchanged with a pension, and by whose authority. It must be distinguished: if the pension is spiritual, such an exchange can be made, but with the authority of the Pope, not the bishop; unless that spiritual pension is also attached to the title of the benefice, such as testimonials, because then they are true benefices, and the bishop can rightly grant exchanges of benefices, as Salm. c. 3. n. 29, and as we said above in the preceding question. However, if the pension is merely temporal, such an exchange cannot be made without the authority of the Pope, because it would be simony against divine law, as Salm. cap. 3. n. 29, with Suar., Bon., Tor., Vill. etc. Nevertheless, the Pope, as the supreme dispenser, can, by dispensing with the exchange, grant a benefice to more

[people], just as he can.

[*Latin ed. p. 99*]

To add fruit, he can subtract a portion of the fruits from one and give it to another, as Lessius teaches in chapter 35, paragraphs 89 and 91. There, he states that this is certain, with the consent of the Doctors [of the Church]. Salm also agrees with the aforementioned authors, paragraph 30, as mentioned in question 1, paragraphs 70 and 76. However, a significant question arises: when benefits are exchanged and are unequal, is it permissible to compensate for the inequality through some pension or sum of money with the authority of the Pope? The first opinion, which Lessius holds in chapter 35, article 101, along with Cajetan, Soto, Silvestro, Anglerius, etc., affirms this with probability. The reason is that, in this case, the bare titles of the benefits are simply exchanged, but they are separated from the rights to the revenues, which are temporal and are compensated by another contract. As Lessius states in chapter 35, paragraph 102, verse 3, and he proves this from chapter addressed to question 6, concerning exchanged things, where Clement VIII approved the exchange of two parochial churches, with the excess of the richer one being compensated with money. On the other hand, the second opinion, which is also probable, is held by Anaclarius in *De Beneficiis*, treatise 11, part 2, question 5, paragraph 50, along with Layman, Covarrubias, Vasquez, and Salm in chapter 3, paragraph 34, along with Navarret, Sanchin, Fillol, Suares, and Bonaventure. They argue that it would be simony against divine law, since a temporal thing would be purchased for a spiritual one: for that excess is consequently attached to the spiritual title of the benefit. Furthermore,

[*Latin ed. p. 100*]

They say that in Psalm 35, the pontiff can approve a contract not in the manner of a commutation, but by separating the more profitable part of the fruits and giving it to another, as we said above. However, it is certain that simony is compensated for with money the excess that exists in a spiritual matter, such as for a greater dignity or jurisdiction. On the other hand, it is not simony to exchange a more profitable benefice with another of greater dignity; provided that no regard is had for compensating for the excess of revenues with the excess of dignity. See Salm. ibid. n. 32, 77. Question V. is how a transaction may be made in benefices. In other spiritual matters, it is certain that a transaction may be made even with one's own authority; Salm. cap. 3, no. 42: just as it is permissible to exchange one spiritual thing for another, as we said above in question 3. But in benefices, at least the authority of the bishop is required; even if a spiritual thing is exchanged for another purely spiritual thing, from cap. Super eo etc. We have established, as Salm. d. no. 43, with Suar., Pal. etc., that this does not prevent the parties from acquiring their own rights, by yielding or remitting to arbitrators,

who at least must be clerics; provided that no division of rights or revenues is made, and no burden is imposed on the one yielding, from d. cap. Super eo. Salm. ibid.

[*Latin ed. p. 101*]

40. and 48. with Laym., Bon., Fill., Pal., Suar. Simony is to settle a dispute through the intervention of gifts, without the consent of the superior, since every agreement is illicit in ecclesiastical benefices. Croix, book 5, number 5058, with Suar., etc., 78. But it is doubted: 1st, whether a bishop can lawfully settle a dispute with someone by imposing a burden, so that the one receiving the benefice pays something to the one relinquishing it. This does not seem lawful in itself, since spiritual things are exchanged for temporal things; but it can be permitted for certain reasons: 1st, for the sake of peace, which also contributes to spiritual good, as stated in chapter *Nisi Dominus* concerning prebends; 2nd, for the sake of equity, so that the one relinquishing the benefice does not remain without the necessities he needs; 3rd, for the labor and expenses that the one relinquishing has suffered, and that the other would have suffered if he had not relinquished. Salm., chapter 3, number 44, Pal., Bon., etc. Indeed, Laym., book 4, treatise 10, chapter 8, page 5, number 58, with Suar., and Ab., and Salm., chapter 3, number 48, with Pal., Fill., Bon., teach that even arbitrators (who are nevertheless clerics) can settle disputes with such a burden; provided that it is not an annual pension, and provided that the benefice is not removed from the possessor; and it is known that this can be done, as stated in chapter *De cætero, de trans.*, 79. It is doubted 2nd, whether, for the sake of peace, a bishop can impose a pension to be paid by the one receiving the benefice to the one relinquishing it, for the duration of the former's life, in such an exchange. Salm., chapter 3, number 46, with Azor., Bon., etc., and so many times in LIG. Theol. Mor. Vol. III, deny this.

[*Latin ed. p. 102*]

The decision of the Rota attests to this, as Bonac. states; for they say that such transactions are not permitted by the custom of the court. However, Laym., in the aforementioned place, chapter 58, holds the contrary opinion, along with Abp., Pal., Suar., Torr., Pard., and Menno, cited by Salm., chapter 46, whom they consider to be quite probable. The reason is that, although (as Salm. states in chapter 45) only the Pope can impose perpetual pensions on beneficiaries, as we have said above; nevertheless, in transactions, the common Doctors state that the law and custom have already introduced the right for bishops to impose pensions, not indeed on beneficiaries, but on the same benefices for the lifetime of the pensioners. And Laym. states that this is evident from chapter "Nisi essent," of the book on prebends, and that the same can be said by ecclesiastical judges, as stated by Laym. ibid., chapter 80. Question 3: Whether such a transaction with a pension

on a benefice can be permitted by a bishop, if the parties have previously agreed to it, but dependent on the consent of the bishop. Laym. and Reg. deny this. But Salm., in chapter 47, along with Bonac. and Torre, consider it more probable. Question VI: How can renunciations of benefices be made? The renunciation of a benefice must be made in the presence of the prelate who is able to confer it; and it must also be accepted by him; otherwise, there is no renunciation, and the benefice is not vacant, as stated by Salm., chapter 3, paragraph 49, along with Garcia.

[*Latin ed. p. 103*]

And concerning this, it must be noted that this does not apply to contested benefices, or to elections to them which are validly relinquished by their own authority, according to canon 2 of the section on restitution, and canon, certainly, on renunciations. However, a renunciation of a benefice can be made in several ways. 1. Purely and absolutely, and in this case, there is no suspicion of simony involved. 2. Absolutely, but not purely, if it is made without designating a person, but with the burden of a pension: concerning which, if the pension is temporary, we have stated above in paragraph 75, that in such a case, no such renunciation has yet been made in the hands of the bishop. But it is doubtful whether a renunciation with the burden of a spiritual pension is valid. There are two opinions on this matter, both of which are probable, as Pal. states in d. 3, p. 17, n. 13. The first opinion affirms, along with Malder, Gigas, Fel, Imola, Nav, Rebuff, etc., as cited by Salm. c. 3, n. 59, that it is very probable that bishops can impose such a pension on benefices for a just cause. However, Salm. states in dict. n. 59, along with Azor, Bon, etc., except in the case of very grave necessity, that they believe that such a power has been taken away from bishops by the constitution *Pit V.* – *Intolerabilis*. Less holds the same opinion. See n. 74. 3. A renunciation can be made purely, but not absolutely, namely, if it is in favor of a certain person without a burden; and this is no longer prohibited by divine law, if there is an honest purpose, but by ecclesiastical law, unless it is made in the hands of the Pope. This is the common opinion. See Sanch. cap. 3, n. 52.

[*Latin ed. p. 104*]

82. But it is asked whether such a declaration, made in favor of a third party, constitutes simony when made in the hand of a bishop. Salm, in number 53, distinguishes well, along with Sanch., Bon., Soto, Torre, etc.: if a pact precedes with the bishop, so that, after the resignation is made, the benefice is conferred upon a third party, it would certainly be simony; otherwise, if no such pact exists, because then the remaining bishop, in his freedom, would act freely if he were to confer it upon someone later. However, the one who renounces in this manner would sin against the Church, and for this reason, he could be deprived of the benefice by the

bishop, as Salm states in chapter 3, number 54, along with Less., Suar., etc.

83. It should be noted that it is very probable that it is not illicit if the one resigning also declares to the bishop, in the same declaration, his desire that the benefice be conferred upon a certain person: provided that there is no pact, as a strict condition suspending [the resignation] (as is to be understood from *Motus proprius* of St. Pius V, in the year 1568, as Salm states in chapter 3, number 56). The reason is that, truly, in this case, the resignation is made simply, and the bishop is free to confer the benefice upon whomever he wishes. Thus, Salm, ibid., number 55, along with Nav., Azor., Pal., Sanch., and Garcia.

84. But it is doubtful whether, after a resignation has been made with a condition in favor of a third party, in the hand of the bishop, this resignation can be accepted with the condition rejected. Sanch., along with Soto, S. Anton., and Silv., state this in Less., book 2.

[*Latin ed. p. 105*]

Chapter 35, paragraph 95, and Covini, Aragona, and Villalonga, in *Adnotationes* chapter 3, paragraph 57. Because such a condition, being considered scandalous, is held not to be added [to the resignation]. However, Lessius, in his *Dictionarium*, and Salm, in his *Dictionarium*, number 37, along with Suarez, Palearius, etc., deny this; because they say that resignation cannot be admitted for one part and rejected for another. Both opinions are sufficiently probable, as Torre states in Salm, ibid., 85, Question VII. The question is: When is a confidential resignation considered simoniacal? It should be known that, according to the constitutions of Pius IV and St. Pius V, in the 7th Decretal, chapters 9 and 10, concerning the collation of benefices, in accordance with the 24th Session of the Council of Trent, chapters 9 and 19, all confidential resignations made with access, regress, or ingress to the benefice, or with the confidence of receiving the fruits from the resigned benefice, are prohibited. For if the confidence were about some other temporal matter, besides the fruits of the benefice, it would indeed be simony, but not a confidential one, as Croix rightly notes in his *Liber Tertius*, page 1, paragraph 68, with Suarez, Layman, etc. By "access" is meant, if you resign a benefice to someone with the confidence that he will later renounce it and transfer it to another. By "regress" is meant, if you resign a benefice, reserving the right to return to it in some case. By "ingress" is meant, if you resign a benefice that has been conferred upon you, before you have possessed it, reserving the right to enter into possession, for example, if someone dies, etc.

[*Latin ed. p. 106*]

If anyone should relinquish a benefice to another without a pact, but with the hope that the latter will, out of mere gratitude, relinquish it again in his favor, or pay something from the fruits of the benefice, it is certain that

this is not simony according to divine law, nor according to ancient canon law, although it is very dangerous and, in most cases, is simony, as stated by Salm. c. 3, n. 65, 86. But the following question arises: 1st, whether such a relinquishment with hope, without a pact, is condemned according to new law, according to the decrees of Pii IV and S. Pii V. There are two opinions that are sufficiently probable, as stated by Salm. ibid. n. 66. The first affirms, along with Pal., Suar., Bou., etc., and they prove this from the words of the bull of S. Pii V, where it is said: "If anyone... has received something even under the title of a simple donation." However, the second opinion is more probable and denies it. The reason is that in these constitutions, only the decree of the Council of Trent is renewed, which condemns only those agreements by which a new obligation is imposed (with an express or tacit pact, as explained by Nav. and Rodr. apud Salm. n. 69, in fine). However, by the words cited, the Pope does not order anything other than that a simoniacal agreement should be presumed if a donation is proven to have been made afterward. This is held and more fully proven by Salm. de c. 3, n. 67, and 68, along with Suar., Sa, Vill., Nav., Less., Sanch., Azor, etc. 87. Question 2nd: If the one relinquishing declares his intention to be that the other should remain obligated to relinquish the benefice in the future, but without the other...

[*Latin ed. p. 107*]

Regarding the promise, whether it constitutes true simony in secret transactions. Palearius and Diana, in *Croix*, book 3, page 1, number 65, affirm this. However, it is more probable that Navarrius, Azorinus, Lessius, Suarius, and others, in the same place, deny it; because there is then no agreement that is binding on both sides. However, Croix notes otherwise in number 66, in the case of a public transaction, if he resigns, declaring that he wishes that a pension be paid to someone from the fruits, because this is clearly expressed in the *bulla*. 88. Question 3. Whether these constitutions include secret transactions also in the exchange of benefices. Suarius and Palearius, with Navarrius, in Salmerius, chapter 3, number 7, deny this, because there is no mention of exchanges in these matters. But Salmerius, in the same place, with Aravus and Torre, say the opposite, and they prove this from the *bulla* of Pope Pius V, where, as they report, it is expressly stated: "But also all exchanges, presentations, collations... and other arrangements shall be of no consequence." But it would be necessary to examine more carefully how the aforementioned authors explain these words. 89. Finally, two things should be noted. 1. Whether, through this simony, even if it is only conventional, the following penalties are incurred: 1. Interdict from entering the church; 2. Papal excommunication by the very act; 3. Nullity of the collation and the obligation to pay the fruits; 4. Deprivation of other benefices previously obtained. See Salmerius, chapter

3, number 79.

[*Latin ed. p. 108*]

However, this ultimate penalty is not incurred unless after a judicial sentence, at least a declaratory one, as stated in Psalm 73, with Suarez, Layman, Sanchez, Held, and Torre. See number 112, 90. Note secondly that, if someone resigns a benefice with confidence, even with an express agreement, but with his own authority, without obtaining the consent of the superior, he would certainly sin, but would not incur the aforementioned penalties, because such a resignation is null in itself, even if that simoniacal agreement were not present. Salm. d. n. 73, with Navarrus. Conversely, it must be said that if the agreement were valid, unless simony intervened; because then the penalties are incurred, even if the resignation is null. Salm. ibid. with Navarrus. From this, Elbing rightly infers in number 649, and Croix in book 4, number 958, with Fillon, etc., that if someone resigns a benefice in the hands of a superior, after secretly agreeing that the resigning party will receive something in return, not only is the resignation null, but the one resigning loses the title, and among the other penalties of simony is the inability to hold the same benefice.

91. Question VIII. How is simony committed for entry into a religious order? It is certain, as taught by St. Thomas (2-2, q. 100, art. 3, ad 4), that to give and receive something for entry into a monastery is simony, according to the decree "Quam pio," question 2, hence 1st, it is not permissible to admit someone into a monastery because of...

[*Latin ed. p. 109*]

The goods which are offered; for it would be selling the religious state; unless he simply expresses, without any agreement, his desire to enter with his possessions. Similarly, it is not permitted to offer service to the monastery as a price of admission; unless someone serves in order to gain the favor of the religious, so that they will admit him, as Salm. c. 2, n. 47, with St. Antoninus, "Silv. et Sanch. 2.º" states. Conversely, St. Thomas, in the aforementioned work, says that it is not simony if someone gives alms to the monastery, so that he may be admitted more easily out of gratitude; nor even if the religious persuade someone with gifts to enter the monastery. Indeed, as Bonaventure says, it is not even simony if the monastery pays his debts, in order to remove obstacles to his entry, provided that the freedom to enter is left intact; or if the monastery promises to admit him after he has learned the art [of a trade]: because then, no burden is imposed, but a condition required is declared, if he desires to be admitted. Salm. n. 48, with Regin., Azor., Silv. 3.º. It is also permitted, as commonly taught by St. Thomas 2-2, qu. 100, art. 3, ad 4, and Cabass. theor. jur. lib. 5, cap. 5, n. 12, with Bonaventure, Cajetan, Navar, Toldeo, Suarez, etc., if the monastery is in need, to accept something for the support of the one entering, such as

the dowries of nuns and the distributions which are usually given to other nuns. However, Sanchez, in Salm., notes that it can scarcely be excused if monasteries request a larger dowry because of...

[*Latin ed. p. 110*]

dishonor of the person, or some other defect: unless this would cause detriment to the monastery in terms of honor, goods, and the like; because this would already be a temporal loss. And thus, it is permitted to receive more for the admission of a third sister or a widow, an old woman, or someone infirm, etc. See Salm. d. c. 2. n. 50, 92. But a great question is whether it is permissible to receive anything for the support of one entering, if the monastery is wealthy. The first opinion, held by Soto, lib. g. quæst. 6. art. 2., Pal. d. 3. p. 9. n. 4., Bonac. d. 1. q. 4. §. n. 2., Sanch. cons. cap. 3. d. 23. n. 1., Elb. de simon. n. 604, and Salm. d. c. 2. n. 55, along with Lez., Silv., Arag., etc., affirms. The reason is that, as they say, this is neither simony, nor is it against natural law, nor against positive law. Not against natural law: because, on the one hand, a temporal thing is not received unless it is for the provision of temporal support; on the other hand, it cannot be said that those who request to enter have any right to the goods of the monastery, since either these goods were obtained by the monastery through its own industry, or they were freely given to it by others. Nor is it against positive law: for if any laws seem to prohibit this, no text expressly prohibits receiving something for the title of support. However, they say, if ever such a prohibition existed, it has been removed by contrary custom. Elb. and

[*Latin ed. p. 111*]

Psalm 54, with Silvanus, Torre, Villalobos, etc., which at least cannot be excused from the stain of avarice. The second opinion, which is followed and held by Cabassus, in the cited place, number 3, with Bona, Suarez, book 4, on simony; Layman, treatise 10, chapter last, section 4, number 59; Cajetan, 2nd part, question 100, article 3; Roncaglia, on simony, chapter 2, question 6, and others, to whom the Doctor of the Church clearly assents, in *Summa Theologica*, question 100, article 3, ad 4, teaches that something may only be demanded if the monastery is poor, and (ibid.) if the monastery's resources are not sufficient for this purpose. The strongest and most compelling reason is this: although the petitioner has no right to the monastery's goods before reception, after being received, he does indeed have a right to them for his support. Therefore, if the monastery is wealthy and demands something for the support of that time, it is selling him a right that he will already have after reception; and although that support is something temporal, it is truly something that is subsequently attached to the spiritual. Therefore, just as one cannot sell the right to the revenues of a benefice or the right to collect tithes, because these are revenues that

are subsequently attached to a spiritual thing, so neither can one sell the right to sustenance in monasteries. Hence, from the chapter "Quoniam," concerning simony, it was forbidden for some nuns to receive temporal things under the pretext of poverty, from those about to enter, for their support.

[*Latin ed. p. 112*]

And in the extra acts, book 1, concerning simony, it is prohibited under excommunication to receive anything from anyone for any purpose in order to enter a religious order, unless someone wishes to give liberally. And since this is simony by divine law, as we have demonstrated, the argument put forth by adversaries to the contrary, concerning a custom, is of little value; although I greatly doubt such a custom exists, except in the case of monasteries of nuns, as we shall see below. However, we say differently when the monastery is in need: for when it does not have sufficient goods to support others, then it should not sell anything, since it would have no right to receive goods that the monastery does not possess. And in this matter, the Doctors generally agree. And Cabass, in the aforementioned passage, number 13, points out that it is not strictly necessary to demand something from those who are being received, but it suffices that the monastery is not able to conveniently provide them with sustenance otherwise. Indeed, the Council of Trent, in session 25, chapter 3, concerning reforms, provides: "That in the temporal affairs of monasteries, the following rule should be observed, so that the number of nuns may be conveniently supported." However, it is not valid to argue, as Salm. does, that, just as a priest, even if wealthy, can lawfully receive money from another to celebrate Mass for a stipend for his support, so too can a monastery from a postulant for the same reason of support.

[*Latin ed. p. 113*]

For it is answered that the priest, when receiving alms for a Mass, lawfully receives them as a stipend for his sustenance, which is due to him by justice, as We have stated above in number 55. However, the monastery itself cannot demand anything for the burden it undertakes in supporting a novice, because, as We have said, the novice, after reception, has the right to sustenance from the goods of the monastery, as being attached to the reception itself. Nevertheless, the following are excepted: 1st, if something is received from the postulants for food during the time of their novitiate; for this is expressly permitted by the Council of Trent, Session 25, chapter 16, concerning reforms. 2nd, if the person to be received is infirm, elderly, of weak intellect, or similar; because then the monastery lawfully receives something temporal from him, both for the lack of service which another healthy or young person would provide, and for the extraordinary temporal inconvenience which the monastery itself will suffer on his account:

thus St. Thomas, 2-2, question 100, article 4; Croix, book 3, page 1, number 287, with others; and this is certain among all, as Salm asserts in number 51. 3rd, monasteries of nuns, to whom Clement VIII. (as Navarrus, Basaeus, Lessius, and Bonaventure report in Cabassus, number 17) granted an indulgence to be able to accept the dowry for their sustenance. The reason for this indulgence seems to be because the monasteries of nuns...

[*Latin ed. p. 114*]

They are, as experience demonstrates, more subject to various misfortunes than monasteries of men. Whether, however, excommunication inflicted in Extra I, de simon, on all those who demand and receive payment for entrance into monasteries, is today abolished in practice, Navarrus and Lessius seem to affirm; but Cabassus, n. 17, states that it can still be in force for monasteries of men. From the aforementioned, resolve 93: "Simony is to preach, to catechize, to celebrate Masses for a price, unless excused by reason of labor, not intrinsically (for that is sacred and invaluable; that is, either the very action itself is sacred, or something intrinsically included in it), but extrinsically, not attached to a spiritual matter, such as for the labor of travel or singing in Mass, or for the sake of another's inconvenience, a price is demanded. The reason is, because those actions are, by their very nature, ordered towards something supernatural and towards salvation, and not towards something temporal, such as any teaching, even of theology, which is subject to a price. Bon., in loco citato; Suar.; Fill.; etc. See below, book 6; Laym., book 1, § 4. See the statements in n. 55." 94. "Question: Is it simony to receive something for instructing others in sacred doctrine? It is distinguished as follows: if the instruction tends only to the spiritual good of others, it is simony; because then it is a purely spiritual matter, for which no price can be received. Hence, it is simony."

[*Latin ed. p. 115*]

To receive something for a discourse, whether as payment for the intrinsic labor, study, and effort involved, as taught by Lessius in book 2, chapter 34, paragraph 76, and by Salm in chapter 2, paragraph 42, along with St. Thomas and the common opinion; unless it is received as a stipend for sustenance, as stated by Lessius in chapter 35, paragraph 7, and by Salm in the aforementioned section, paragraph 20, along with St. Thomas, Torre, Sanch., Villalobos, etc. See the aforementioned paragraphs 55. Otherwise, if the instruction also aims at some temporal good for another, such as utility, honor, or pleasure, as is the case with instruction in interpreting the Holy Scriptures, in teaching theological conclusions, or in refuting heresies. Croix, paragraph 179; Lessius, ibid., paragraph 80, along with Soto, Cajetan, Victorius, and Salm, ibid., paragraph 43; Elbing, paragraph 620, from St. Thomas, 2-2, question 190, article 3, ad 3, where he states: "He who teaches a science can receive a stipend, as if he were renting out his

services." Therefore, it is also permissible to receive something for teaching moral theology, as is probable in Croix, book 3, page 1, paragraphs 165 and 184. Also, for granting permission to teach theology with a title of magistracy, as is evident from the practice of universities, or for giving moral counsel; because this is a temporal instruction, although it leads to peace of conscience. Otherwise, if the counsel were directed only to the spiritual good of another: for example, to move him to repentance, etc. Salm, ibid., paragraph 45.

[*Latin ed. p. 116*]

95. "Furthermore, simony consists in giving or receiving a price for absolution from sins and censures, for a dispensation in a vow, oath, impediment to marriage, irregularity, etc. However, something may be demanded in these cases as a penalty to be applied to a pious cause. Laym. l. cit. n. 10."

96. "Solutions in dispensations concerning marriages, etc., are also accepted as a means of supporting the burdens of the pontificate; also, by way of commutation, just as vows are commuted into alms. And it is permitted for bishops, in such dispensations, to receive something to be distributed as alms (provided that nothing reaches them or their own), by way of penalty or commutation, but not by way of support; for this is forbidden to them from chapter *Jacobus*, concerning simony, and by the Council of Trent, Session 24, canon 6, Salm. with St. Thomas, d. c. 2, n. 36 and 37."

97. "Question: Is it simony to give something so that another may omit a spiritual act? Distinguish: and affirm if the omission is directed by spiritual authority, such as the omission of absolution, dispensation, election, etc., from chapter *Presbyter*, concerning simony, where it is forbidden that penance be denied for a price, unless such absolution were sacrilegious or unjust. See Croix, n. 174. Otherwise, it is not simony, if the spiritual act depends on freedom, such as the omission..."

[*Latin ed. p. 117*]

"Orandum est, eleemosynam dare, et sacrificia offerre; nisi si alius ad ea tenetur ex necessitate. Psalm. cap. 2, vers. 27, cum Lect., Vill., etc. 98. 3.º Simonia est dare aliquid ad redimendam vexationem ab eo qui negat sacramenta in necessitate; Suar., Less., Laym.: vel ab eo qui impediet iniuste electionem vel possessionem beneficii ad quod jus in re habes. Quod addo: quia si nondum habes jus in re, etsi possis redimere vexationem ab eo qui tantum potest obesse, non tamen ab eo qui et prodesse et obesse potest. Ratio est, quia non datur tanquam pretium acquivalens rei spirituali, sed ut alter ad officium rite præstandum inducatur."

"In hoc sedulo, attende duas regulas traditas a S. Th. 2. 2. q. 100. art. 2. ad 3. Prima est quod, quando jus est certum et in re jam quæsitum, licet tollere injustam vexationem, dando aliquid temporale, ex comm. cum Nav., Man. cap. 23. n. 102., Salm. c. 3. n. 3., Elb. de sim. n. 616. et aliis. Dicitur jus certum:

nam si dubium sit, non licet; quia tunc per temporale acquireretur ut certum jus spirituale quod erat dubium. Dicitur per injustam vexationem: nam si sit justa, neque licet. Dicitur item dando aliquid temporale: non enim posset dari spirituale pro redimenda vexatione, quia daretur spirituale pro re temporali, qualis est vexatio. Salm. d. n. et 6. cum communi."

[*Latin ed. p. 118*]

99. The question, however, is whether a vexation concerning the possession of a benefice can be redeemed with money. The first opinion denies this, because such possession is a spiritual thing, or something attached to a spiritual thing, since through possession, the right to exercise spiritual things is acquired. Thus, *Viva de benef. quæst. g. art. 6*, and others, such as *Bon., Garc., Abb.*, cited by *Salm. c. 3. n. 7*. The second opinion, however, is more probable, as held by *Bus. hic et Suar. lib. 4. c. 50. n. 31*, *Sanch. cons. l. 2. c. 3. dub. 30. n. 11*, *Pal. tom. 3. d. 3. de sim. p. 20. n. 3*, *Croix lib. 5. p. 1. n. 140*, *Bon. c. 3. q. 4*, *Less. lib. 2. c. 35. n. 109*, who calls it "common," and others, cited by *Salm. n. 8*, affirm that it is permissible; because the right to the benefice is indeed spiritual, but not the possession itself. This is rightly followed by *Salm. n. 9* and *Croix d. n. 140*, who always and certainly state that a right has been acquired to possession; then the vexation would not be concerning a spiritual right, but concerning the fact of possession, which is temporal, and thus it seems that *D. Th. l. c. art. 2. ad 5* teaches: "But after a right has already been acquired by someone, it is permissible to remove unjust impediments with money." Otherwise, it must be said, as *Salm. n. 8 in fine* states, if the right is called into probable doubt, as we said above. It should be noted here that in the Council of Trent, Session 24, chapter 14, bishops are commanded not to permit any payment for admission to possession of a benefice.

[*Latin ed. p. 119*]

Those who, suspecting simony or avarice, make a promise, are to be condemned by any means whatsoever; the Council only permits, if there is a custom, to give something for the conversion of [it] to pious uses. But this is understood 1st, not of all benefits, but only of canonries and prebends in cathedral or collegiate churches, as Bonaventure probably says in *De Simonia*, question 7, section 3, number 4, and Barbarius in *Decretum*, law 1. It is understood 2nd, of those who receive something for admission to possession, and not of those who give something to remove an unjust vexation, as mentioned above; for the bull of Pope Pius V, *Durum nimis*, issued in the year 1570, for the observance of the aforementioned sanction of the Council, explains and confirms this only for those who receive, with these words: "We command bishops, chapters, etc., not to retain the fruits, nor to demand or require anything else, etc." The second rule is that if the right is not already acquired in the matter, but pertains to the matter, it is

not permissible to remove vexation with money, according to Matthew, on simony, where he who, having obtained an election, offered money so that others would not hinder the confirmation, is condemned, since he did not yet have the right acquired to confirmation. Therefore, it is simony to offer money to a bishop who unjustly refuses to present me, or to choose me as worthy; because then, by means of money, I would not only remove the impediment,

[*Latin ed. p. 120*]

But he might also attain a spiritual benefit. Thus, Bus. here, and Sanch. in *Consilia*, book 2, chapter 3, paragraph 30, number 3, Salm. in *decretis*, book 3, paragraph 9, with Laym., Cajet., Silv., etc., say that this would be simony by divine law, along with Soto and Suar. However, Pal., Laym., Bon., etc., argue against this, ibid., paragraph 12. Nevertheless, Bus. here, Croix, number 144, and Salm., numbers 11 and 13, with Less., Soto, Fill., Suar., etc., note that this rule does not apply if someone corrupts other electors by force or fraud to prevent them from electing him; because in that case, he is not acting as an elector. Indeed, it does not apply if the harassment comes from those who can only cause harm; Suar. in *de simonia*, chapter 50, paragraph 23, Pal. in *de simonia*, page 20, paragraph 4, Anacl. in the same work, title, section 13, paragraph 310, Elb. in *de simonia*, number 614. Conversely, it does apply if they are able to both harm and benefit by instituting, presenting, or confirming [someone]; because in that case, whatever is given to them so that they may not harm, is necessarily given also so that they may benefit, without denying consent; and thus, the money is then directly offered as a means of obtaining the benefit. Therefore, I believe it is entirely necessary to agree with Anacl., number 314, Suar., number 18, Elb., in the same place, and Salm., ibid., with the others cited, when money is given so that an elector will not deny his vote, even if he were unjustly denying it; whatever Pal. may say in the same place, number 4, asserting that it is probable that it is not simony if money is given only to remove that wicked intention. Sanch., in *Consilia*, book 2, chapter 3, paragraph 30, also says...

[*Latin ed. p. 121*]

5. and Lessius, *liber* 2, chapter 35, paragraph 17: Simony is not committed when money is given to an elector, not in order to benefit oneself by making a promise, but only to remedy an unjust oppression, by which that elector is hindering one through force or fraud, or by suborning others, as mentioned above. And this seems sufficiently probable, at least in the case where the one giving the money makes it clear that he desires nothing other than to prevent the unjust hindrance. See Mazzola, chapter 3, question 1, page 236, 101.

But here is the question: 1. If someone were to prevent me from receiving

a deserved benefit through the electors, not through force or fraud, but through prayers or favors, because of the hatred they hold for me, would I be permitted to give that person money so that they would cease? Soto denies this, as cited by Lessius, in the dictionary, chapter 35, paragraph 109. But Lessius, in the aforementioned passage, Croix, *liber* 3, page 1, paragraph 147, along with Suarez, Layman, and also Salm, chapter n, paragraph 13, along with Sanchez, Valois, and Bonaventure, correctly affirm that it is permissible; because, as Lessius says, if it is permissible to give money so that another may cease from unjustly hindering one, it is also permissible to give money so that they may cease from hindering one against charity, since truly such a hindrance is a temporal thing, which is remedied by another temporal thing, and on the other hand, the money given does not at all necessarily lead to the benefit.

102. Question 2: Can I give money so that another will not oppose my election, even if I do not know that the electors are inclined towards me?

[*Latin ed. p. 122*]

They deny it, Salm., ibid., n. 14, and cite Sanchez and Lessius. However, it must be noted that Lessius, in the aforementioned work, chapter 35, n. 126, speaks only of a benefit conferred upon one who is capable of doing good and evil, but concerning another who is capable only of doing evil, and if that person were to unjustly oppose, at least sinning against charity, it seems probable, according to the same teaching of Lessius, as mentioned above, that it would be permissible to give money so that he cease from that illicit impediment. And Croix, in the cited work, dictionary, n. 147, asserts, along with other Doctors cited, that it is not simony if one gives money to another so that he cease from that unjust vexation against charity, if that other, without a reasonable cause, incites the electors by prayers or gifts to not favor one, but another.

103. Question 3rd: Whether it is permissible to give money to electors so that they do not elect an unworthy person, or so that they elect a worthy person. The answer is that it is permissible to give money so that an unworthy person is not elected, if it is established that the electors are prepared, or at least inclined, to elect an unworthy person; because the Church has a right acquired to prevent an incompetent minister from being appointed, as Lessius states, in the aforementioned work, chapter 35, n. 112, with the common opinion. Croix, n. 146. Similarly, Salm., in the aforementioned work, chapter 3, n. 15, with Cajetan, Laÿman, Soto, Suarez, etc., say that it is permissible to prevent a less worthy person from being elected, and even to ensure that a worthy or more worthy person is elected in general, as in n. 16, with Cajetan and Laÿman, etc., and Croix, n. 145, with Suarez,

Lessius, Barbieri, etc.

[*Latin ed. p. 123*]

Commutatively. It is not permissible to give money so that someone worthy, even the most worthy, may be chosen; unless in a case of necessity, namely, if among all, only one worthy person is found whom they would not wish to elect. And although such an election would be null according to the laws, confirmation of it could nevertheless be requested from the pontiff. Thus, Less. cap. 35, d. 19, Quær. 4.

Regarding whether it is simony to give money to a competitor so that he may desist from competing for a benefice that you claim. Elbel de sim. n. and Gog. and Pasq. apud Croix, hb. 3, p. 1, n. 142, deny this; because, as they say, this abstention from competing is, on the one hand, not something spiritual that is bought, and on the other hand, the competitor contributes nothing positively to the granting of the benefice, but only acts negatively. However, I do not agree with this opinion, and Croix, in the work cited, rightly says that it should not be admitted, as against the common opinion. The reason is that, as Less., Suar., Pal., Barb. etc. teach commonly, apud Croix ibid., with S. Th. 2-2, q. 100, a. 2, ad 5, it is permissible to remove vexation by means of money only when the vexation is unjust, but not when it is just; otherwise, a direct path to the benefice would be prepared by means of money, which is entirely illicit.

Quær. 5. Whether it is permissible, in a case of necessity, to give money to a priest who is unwilling to administer the sacraments without it. D. Th. and Alens. deny this.

[*Latin ed. p. 124*]

etc. apud Less. lib. 2. cap. 35. n. 37: quia, ut dicunt, emere sacramenta nunquam est licitum, utpote intrinsece malum. Sed recte affirmat ipse Less. n. 38. et 39. cum Adrian.: item Suar. de sim. lib. 4. cap. 12. n. 13., Gers. de sim. rat. 6., Caj. q. 100. art. 2., Dian. p. 5. tract. 7. r. 16. et Sporer de V. præc. c. 1. n. 109. cum S. Bonav., Vasq., Pont. et aliis communiter. Ratio, quia hoc non est emere sacramentum, sed vexationem redimere vel potius (ut ait Less. n. 41.) permittere cum justa causa peccatum alterius. Hinc Diana et Hurt. dicunt hoc licitum esse non tantum in sacramento baptismatis et pœnitentiæ, ut plures ex DD. cit. volunt, sed etiam in aliis sacramentis, prout consentit etiam Less. dict. n. 38. Et non tantum in casu gravissimæ necessitatis, ut ajunt Suar. et Less., sed etiam necessitatis gravis, puta si quis impleturus esset præceptum paschale confessionis et communionis, vel peteret viaticum aut extremam unctionem, vel esset in peccato mortali, vel etiam carere deberet frequenti usu sacramentorum, denique quotiescumque aliquis non posset sine gravi incommodo aliquo sacramento carere. Quod videtur sane cohærere iis quæ diximus de scandalo n. 47. v. Secunda vero, ubi vidimus cum D. Thom., D. Aug. et communi cuique esse licitum

causa cujusdam sui.

[*Latin ed. p. 125*]

It is not permissible for a person of notable virtue to allow another's sin, which arises solely from that other person's malice. 104. § 4. Nor is it simony to give a stipend for the support of a cleric, even a wealthy one, for Masses, sermons, or for other services, even to agree to such a thing. The reason is that it is not given as a price for a spiritual office, but to a person occupied with the good of another, and it is not for a spiritual work as such, but because the person has undertaken to serve the good of another; therefore, it is not alms, but a debt of justice. Suarez, Layman's Moral Theology, Book 4, Tractate 10, chapter last, etc., against Richerius, Silvaticus, etc. (See dictionary, no. 55). § 5. It is not simony to give or redeem a purely temporal pension: because it is not founded on a spiritual title, nor does it relate to a spiritual function. I said temporal, because a spiritual pension, which is given, for example, to a preacher or to an assistant bishop, because of an ecclesiastical office, is founded on that office, and does not differ from a benefit except that it is not perpetual; it cannot be sold. A mixed pension, such as one given to an elderly parish priest or a poor cleric for support, cannot be sold; however, it can be redeemed, provided that the obligation to recite the Divine Office is not extinguished. Understand this, if in the place where the sale takes place, a *bulla* has been received. The reason is that he who redeems a pension does not buy a spiritual right, but extinguishes the temporal obligation to pay a certain sum. Lig. Theol. Mor. Vol. III. F.

[*Latin ed. p. 126*]

"A large sum of money. Less. cap. 35. dub. 21., Suar. c. 26. n. 5., Laym. l. c. n. 46."

6. It is not simony, according to divine law (although it may sometimes be so according to human law), to exchange spiritual things for spiritual things, for example, a benefice for a benefice, or relics for relics; nor to give a temporal thing for a temporal thing, as if to sell a chalice, or the Lamb of God, precisely because of the material; nor to give a temporal thing for a spiritual thing, in the manner of a free gift, even with the hope or intention of obtaining a reward for the spiritual gift, or the contrary. The reason is that gratitude does not regard the price, but the benefit, nor does it pay the debt of justice, but rather an offering; which does not exclude the possibility of a free gift being given. (But see notes 51 and 54). However, Suar. rightly warns that such gifts, due to the presumption involved, should be avoided. Also, to give, promise, or deny something temporal, under the condition of performing a spiritual work, provided that it is not done in the manner of a retribution or exchange, for example, if a parent promises a gift to a child if he attends the sacraments. The reason is that here, there is no burdensome

contract, but rather it is either a liberal donation, or a donation under such a condition and manner. Suar. l. 4. c. 45., Laym. d. c. n. 8. (See note 59).

[*Latin ed. p. 127*]

ARTICLE SECOND. WHAT IS THE PENALTY FOR SIMONY.

105. What acts of simony incur penalties. Do penalties apply to the sale of sacraments or of a chaplaincy not conferred, etc.?

106. Must simony be fully consummated on both sides in order for penalties to be incurred?

107. Does one incur penalties who obtains a benefice through a feigned promise of money?

108. Are penalties incurred through simony only concerning ecclesiastical law; or also concerning entrance into religion?

109. What are the penalties for a simoniacal ordination?

110. Does this also apply to the conferring of the first tonsure?

111. What are the penalties for simony in benefices?

112. Are penalties incurred in the sale of a vicarage or other removable office, as well as pensions, chaplaincies, or sacraments, and jurisdiction? Then four questions are posed.

Question I. Are there any simoniacal elections to prelacies of regular canons?

Q. II. Do the penalties for benefices received through simony apply to the ignorant?

Q. III. Is a simoniacal beneficiary deprived of the benefices obtained by the very fact, and rendered incapable of obtaining them in the future?

Q. IV. Is a simoniacal election of a Pope null?

105. *Response.* 1.º Only simony, with actual and real intent, in ordination, in the reception of an ecclesiastical benefice, and in entrance into religion, incurs penalties by the very fact of the law; although, as stated, it rarely occurs concerning entrance into religion, or because of its slightness.

[*Latin ed. p. 128*]

"Or a custom contrary to that of monasteries (but see n. 92). Suar. c. 56 and 57, Less. decis. 32, Laym. loc. cit. §. 7."

"In the sale of other things, namely, sacraments, jurisdiction, pensions, or a non-collated chaplaincy, although sin is committed, no penalty is incurred. Less. l. 2. c. 35. n. 23, and Salm. c. 4. n. 1, with common opinion. See n. 112, 106."

"Question: 1. Is it required for incurring penalties that simony be complete on both sides?"

"There are two opinions, both probable. The first opinion denies this, as

held by Salm. c. 4. n. 9, with Soto, Caj., Pal., etc. They say that it is sufficient that the spiritual thing be transferred; for, once the thing is transferred, the sale is perfected, even if the price is not paid, provided that faith is given concerning it, and from l. 2. ff. de contrah. emp."

"However, the second opinion is more common and more probable, held by Less. l. 2. cap. 35. dub. 27, Nav., Man. c. 23. n. 104, Suar. de sim. c. 56. n. 33, Anacl. a n. 240, Croix n. 112, Ronc. c. 1. qu. 2, Elb. n. 628, as well as Laym., Sanch., Cov., Moya, etc., apud Salm. n. 17, who call it probable with Pal. and others, and it requires completion on both sides."

"Reason 1: because the sale and the purchase are not entirely perfected at the same time, unless the thing and the price are given."

"Reason 2: which is more compelling to me, because in law, penalties are never imposed unless the act is complete."

[*Latin ed. p. 129*]

The penalties against simony are not fully incurred on either side, and a more lenient interpretation should be given in the penalties; as is stated in c. 49 of the "De Reg. Jur." in book 6. And this is the style of the court (which is considered law with Elb. and the common opinion), as Navarrus and others attest, namely that the penalties were not incurred unless simony was fully consummated on both sides. Hence, the Doctors infer that one who receives a benefice with a promise to pay money is not obligated to resign the benefice before payment, nor to restore the fruits. It should be noted, however, 1st, with Lessius, ibid., n. 15, and Salmeron, n. 6, that if only part of the promised sum is paid, it is already understood that simony is fully consummated on both sides. It should be noted 2nd, that penalties are incurred for fully consummated simony, even if it is hidden, as in extr. 2, de sim. See Elb. n. 620. It should be noted 3rd, that if the simony is confidential, penalties are also incurred through conventional simony, namely, that which is fully consummated on one side, according to the Bull "Intolerabilis" of Pope Pius V, § 3. See Anacl. l. 5, decret., tit. 3, n. 284, Elb. n. 629, and see below n. 111, concerning fin. resp. 4, 107. The question arises: 2nd, whether one commits simony and incurs penalties who obtains a benefice through a fictitious promise of money that is not fulfilled. Pichler, l. 5, tit. 3, n. 13, and Pontanus, "De Simonia," case 5, say that this is indeed considered simony; because, for incurring it,

[*Latin ed. p. 130*]

It is required that a temporal transaction be actually carried out, but it suffices that a spiritual effect be obtained through the motive of a temporal matter. However, I believe that this [person] cannot be excused from the sin of simony, because he at least cooperates with the simony of the one who bestows the benefit. For, concerning himself, I consider it more probable, as stated in Elb. n. 625 and other grave Doctors, that one does

indeed sin gravely by acceding to the request of another in a serious matter, but not with the sin of simony, since, without the will to obligate oneself to a promise, there is not a true purchase which is required for simony. Concerning the penalties of simony, I believe, as stated in Croix, l. 6, p. 2, n. 200 and 204, that they are not incurred when simony is not complete on both sides, as was stated above in the preceding question: 108. Question 3: Whether the penalties are incurred by simony only in matters established by ecclesiastical law, for example, if someone buys the office of sacristan, etc., or if someone resigns a benefice with a pension by his own authority, as we noted above. Elb. n. 627 and Nav., Sot., Vill. etc., apud Salm. d. c. 4, n. 10, affirm this, stating that it is very probable; but they rightly call the negative opinion of Salm. n. 11, ibid., with Sanch., Rodr., Dian., Arag. etc., Ronc. c. 4, quæst. 1, resp. 4, as not less probable. The reason is, because the laws which impose penalties are to be understood generally of rigorous simony, which is also against the law.

[*Latin ed. p. 131*]

Divine; and it is proven from Extravagant 2 of the Decretals concerning Simonians, which begins: "Since the wickedness of Simonians is so abhorrent to both divine authority and the canons of the Church, etc." It is certain that, according to c. 1 of Extravagant 2 concerning Simonians, those who give or receive something as a means of entering a religious order incur, by that very act, a papal excommunication. However, it must be noted that, according to Navar, Sanchez, and Bonaventure, cited by Salmeron, n. 12, this excommunication is not incurred unless one presumes, as is gathered from the text; therefore, those who are ignorant, even culpably, are excused. It must also be noted that it is very probable that this does not apply to a simple entrance, but rather to a profession, as Salmeron states there, along with Bonaventure, Palearius, etc. Furthermore, according to Lessius, Decret. c. 3, n. 131, and Navar, Silv., and Palearius, cited by Salmeron, ibid., this Extravagant, as mentioned above, is not, at least with regard to this excommunication, in common use. Finally, it must be noted that a profession, even if made in a Simonian manner, is certainly valid, as taught by St. Thomas, q. 109, a. 6, ad 5. If, however, the recipient is an entire community or chapter, in addition to the excommunication (which, as we have said, is not in common use), one incurs a suspension reserved to the Pope, from office, execution of canonical law, and administration of jurisdiction; furthermore, both parties incur infamy of the law and, consequently, irregularity. A person admitted through simony must be transferred to a stricter monastery; but not before a sentence. Elbing, n. 626, from the same Extravagant 2.

[*Latin ed. p. 132*]

109. "Responsio 2ª: Ob simoniacam collationem et susceptionem

ordinum, etiam primæ tonsuræ, incurritur excommunicatio et suspensio papalis. *Less. disp. 24., Laym. l. c.*" Praeter excommunicationem et suspensionem papalem, episcopi qui simoniace ordinant, et ad id inediatores, incurrunt ipso facto, ex c. *Cum detestabile, extr. 4.*, etiam interdictum ab ingressu ecclesiæ. Et, si violaverint suspensionem aut interdictum, suspenduntur a regimine ecclesiæ et privantur perceptione fructuum; ex *Motu Sixti V*. Vide *Salm. d. c. 4. n. 14*. Ordinati autem, praeter prædictam excommunicationem et suspensionem ipso facto, ex *d. c. Cum detestabile* et maxime ex *bulla Sixti V*, suspenduntur ab exercitio suorum ordinum, sed illius tantum quem simoniace ordinatus suscepit, ut docet *Less. c. 35. n. 133*, et probabile putant *Salm. c. 4. n. 15* contra *Pal. et Rodr.* Et suspenduntur etiam a spe ascendendi ad ordines superiores. Notant vero *Less. d. l. n. 136* cum *Salm. d. n. 15* cum *Sot., Laym., Sanch.* non incurri suspensionem hanc, si, ordinato ignorante, alius simoniam commiserit. Deinde notant *Salm. d. n. 15* in fine cum *Pal. et Less. ibid. n. 154*, quod licet ex *bulla Sixti V* hujus suspensionis absolutio a pontifice ipsimet reservetur et revocentur quoad.

[*Latin ed. p. 133*]

These faculties were granted to religious and even to bishops in the Council of Trent, session 24, chapter 6. However, the aforementioned Lessius and Palearius state that this bull was not accepted; and Salmeron confirms this in chapter 4, number 34, at the end, along with Sa and Suarez, 110. The question arises whether the aforementioned penalties apply to the granting of a simoniacal first tonsure. Busenbaum and Covarrubias affirm this, citing Lessius, chapter 35, number 133, because, according to the Council of Trent, session 21, chapter 1, it is forbidden to accept anything, even if spontaneously offered, from a bishop and his ministers, whether for the granting of the first tonsure, or for letters of dismissal or testimonials, or for a seal and other things, and those who do so are declared to incur, at the end, the penalties prescribed by law. However, Salmeron, chapter 4, number 14, with Palearius, probably denies this, because the tonsure is not a true order, according to the aforementioned law, number 734. And Lessius, number 133, teaches the same (although cited by Busenbaum for his own argument), stating that there is no excommunication established by law for these things, nor did the Council intend to impose new penalties. Furthermore, it seems harsh that bishops and ministers should incur censure for accepting something spontaneously offered, even if they themselves are innocent. Indeed, the *Doctor Thomae* (Second Part, Second Question, 100, article 2, ad 4) states: "If, however, certain payments are required by approved custom, it is not simony, if the intention of buying or selling is absent... and especially when someone

voluntarily pays."

[*Latin ed. p. 134*]

However, the Saintly Doctor spoke of simony concerning divine law; but by ecclesiastical law, this is forbidden in the Council of Trent, book 1, chapter 12, where all customs, even those long-standing, are condemned, since they ought rather to be called abuses. Furthermore, Croix, book 3, part 1, number 167, seems not improbably to believe that there, only those customs which existed before the Council are condemned, as if perhaps they were immoderate, and not those which are now given in moderation, and which can be presumed to have been introduced for a just cause; for these can certainly be valid, according to the words from *De Legibus*, book 1, number 108. But Mazzarelli, in *De Sacris Ordinationibus*, chapter 1, section 6, page 239, with Navar and Lopus, states that a bishop does not commit simony if he receives something spontaneously offered after (and not before) the conferral of the order; for this is expressly permitted in Canon 1 of the Second Council of Lyons, provided that the bishop does not request it: where it is said: "But if he who has been ordained, if not by agreement, nor extorted, nor requested, after receiving the documents and the pallium, should wish to give something to anyone from the clergy for the sake of grace alone, we do not forbid this to be received in any way; because his offering does not bring any stain of guilt, because it does not proceed from any request made by others." Thus, Gregory, in epistle 44, seems to permit it. Similarly, it seems permissible for notaries, according to customs approved by the places, to receive something for—

[*Latin ed. p. 135*]

Their sustenance is required, if no salary is assigned to them for the performance of their duties concerning the fulfillment of the acts of ordination, as is deduced from the same Council. III. "Response 3.º Real simony is incurred in an ecclesiastical benefice: 1.º by papal excommunication; 2.º by the invalidity of the election, presentation, confirmation, and institution. Therefore, such a person does not produce valid fruits. And this also, even if a third person has provided such a thing in this manner, and the person is unaware of it, as is stated in chapter *Nobis fuit, de sim.* Unless, however, he has contradicted it (as is established in c. 33, de sim.). Note, however, with Less. c. 35, n. 145, and Elb. n. 652, that despite your contradiction, you could not even accept the benefice, if you knew that money had truly been given by a third party for its conferral; for the text excuses you only in the case in which, against your prohibition (the words of the text), someone, completely unaware of you, promised and paid. Note – completely unaware of you –; therefore, if you accept a benefice knowing that it is conferred upon you through the simony of another, you may not accept it (and if you have accepted it, you may not retain it), unless the money was

given by a third party fraudulently in order to fill an otherwise ineligible position, or unless you have held the benefice in good faith for three years: as is commonly taught by Less. dict. c. 35, n. 149, Laym. l. 4, tract. 10, c. ult., Bon. p. 2, n. 20, Elb. n. 640, with Suar., Pal., etc. Nor...

[*Latin ed. p. 136*]

The rule of the chancery presents an obstacle, where it is absolutely required that a benefice be obtained without simoniacal entry; for it is understood to refer to the one who enters culpably. Elb. ibid. with Anacl. Therefore, the one who has received a benefice is not obligated to restore (nor within three years) the fruits of goods honestly consumed, if he has not become richer, as St. Thomas teaches, 2-2. quaest. 100. art. 6. ad 3., Salm. c. 4. n. 18, and Elb. n. 646. Furthermore, it is very probably added that the fruits received in consideration of the curacy, and other parochial functions, namely, the execution of duties, sermons, administration of sacraments, etc., are not to be restored. The reason is that these fruits are not given as revenue of the benefice, but as stipends for the office; thus, according to the common opinion of Doctors, the parish priest may freely dispose of them, even for profane uses, as Lugo de just. d. 4. n. 23, Bon. d. 4. p. 2. n. 19, and Bus. (see l. 4. n. 185, and Sanch. cons. l. 2. c. 2. d. 45. n. 4, who calls it far more probable with Nav., Panorm., Host., Soto, Silv., Cov., and many others, against only Innocent.). 3. o He is rendered incapable of obtaining the same benefice, even through a dispensation from the bishop. However, he is not, by his own right, deprived of other benefices, nor is he rendered incapable of obtaining other benefices before a judgment of the judge. Suar. c. 54. n. 7. (If, however, someone honestly accepts a benefice, even if he obtained it through the simony of a third party, it is probable...)

[*Latin ed. p. 137*]

"The bishop can grant a dispensation regarding the same benefice, provided that the previously beneficiary renounces it. Thus, St. Thomas, 2-2, question 100, article 6, ad 7, and Elbing, number 642, from chapter 59 concerning elections."

"Response: 4th. Complete simony, with the giving and receiving of the benefice, even if the recipient has not fulfilled the promised reciprocal action, incurs: 1st, a papal excommunication for both parties involved; 2nd, it annuls the resignation and the collation of the benefice in which the offense was committed, and it disqualifies the person from obtaining the same benefice in the future; 3rd, it deprives the person of all benefices and pensions previously obtained; however, not before a sentence has been pronounced; 4th, benefices thus conferred are reserved solely to the pontiff. Lessius, chapter 35, number 26; Suarès, chapter 43; Layman, number 76."

"112. It must be noted first of all that by the names 'benefices' and 'offices,' to which all elections are inherently subject, are not included vicari-

ates that can be removed at will, nor pensions, nor chaplaincies that have not been conferred, nor the offices of an inquisitor, legate, or any other person temporarily holding spiritual jurisdiction, because these are not properly ecclesiastical offices; and although selling them constitutes simony according to positive law, the penalties are not incurred, as is commonly stated by Salm, chapter 4, number 18, along with Suarès, Palafox, Sanchéz, etc., as well as Viva, in his work on benefices."

[*Latin ed. p. 138*]

q. ult., art. 3, n. 9, concerning Fill. and Reg. against Garciam. No penalty is incurred in the sale of commendatory benefices or coadjutorships, as Croix states in book 3, page 1, n. 114. Nor is there a penalty in the sale of sacraments or spiritual jurisdiction, as Lessius states in chapter 35, n. 25, and Salmeron in chapter 4, n. 1, with the common opinion. The question arises: 1. Whether simoniacal elections to a generalate, abbey, provincialate, priory, rectory, and other spiritual offices in religious orders are invalid. Bonaventure argues in quaest. 7, p. 2, and Viva in the aforementioned book, that they are not invalid. However, it is more true to affirm, as Cabass affirms in *theoria juris*, book 5, chapter 8, n. 5, and Sanchez in *consilia*, book 2, chapter 3, d. 104, n. 5 and 11, with Silv., Caj., Arm., and Lop.; also Lessius in book 2, chapter 35, n. 137, and Elbing, n. 622, who rightly adds n. 638, that it is not to be seen how those electors can excuse themselves from the stain of simony who elect someone to a generalate with the agreement that they themselves will later be elected as definers, guardians, etc. The reason for this opinion is that, although the aforementioned offices are truly not benefices, they are expressly included by name as offices in the aforementioned decree 2, where it is stated: "But by election, and provisions, etc., which are tainted by simony, and which have absolutely no power in churches, monasteries, dignities, priories, ecclesiastical offices, and by means of which no one acquires any right to any benefice whatsoever."

[*Latin ed. p. 139*]

Question 2. Whether the aforementioned penalties are incurred by the ignorant for benefits received through simony. Answer: If the ignorance was entirely blameless, it must certainly be denied, as stated in chapter 23, regarding rational justice, in paragraph 6, where it is said: "Without fault, unless there is a cause, no one is to be punished." However, it must be noted, in accordance with Elbing, number 656, that, notwithstanding this blameless ignorance, the provision of the benefit will always be null, because the inability to receive the same benefit is not a penalty, but is established by law to prevent evil. However, in such a case, the bishop may grant a dispensation, after the renunciation of the benefit, as stated above in number 111. But what if the simoniac knows that he is committing simony,

but is invincibly ignorant of the penalties? Regarding censures, certainly he would not incur them, according to the common opinion. See book 7, on censures, number 43. However, regarding the other penalties, it is more probable and more commonly held that he would incur them, as Elbing states in number 657, citing Azor, Laym., etc.; but number 658 considers the negative opinion to be probable, which Pichler holds, because penalties established by law are not incurred by the ignorant, as Sanch., Krimer, etc., say apud Pichler, who, for this reason, states that a woman ignorant of the impediment is excused from the impediment to marriage with the man with whom she sins.

Question 3. Concerning the simoniac beneficiary.

[*Latin ed. p. 140*]

He thereby incurs, by the very fact, the deprivation of previously obtained benefices and the incapacity to obtain other benefices. Regarding the penalty of deprivation, the Doctors commonly teach, as above with Bus., that the beneficiary should not be deprived of benefices previously obtained, nor of the fruits thereof, before the condemning sentence of the judge; because no law is held to expressly designate this penalty by the very fact. Thus, Sanch. in loc. cit. d. 14, n. 16; Laym. c. 8, n. 75; Bon. p. 2, diss. 2; Suar. cap. 58, n. 6; and Salm. cap. 4, n. 19, with Fill., Pal., Rodr., etc. The following are exceptions: 1st, simony committed by examiners of parochial benefices elected in synod, who, if they receive anything on the occasion of the examination, are, by the very fact, deprived of benefices previously legitimately obtained, before any sentence, as is expressed in the Council of Trent, session 24, chapter 18, concerning reform. 2nd, confidential simony, by Motu Proprio of Pope Pius V, *Cum primum*, published in the year 1566, whereby those who accept a benefice in confidence are deprived of all benefices, even those previously legitimately obtained, and are required to relinquish them before sentence. However, in these cases, a declaratory sentence of the crime is required in order to incur this penalty, as held by Suar. c. 44, n. 13; Sanch. d. 34, n. 13; Laym. c. ult. §. 8; and Salm. c. 3, n. 73, with Henr., etc. The reason is that all penalties depriving one of rights already acquired are not incurred before sentence.

[*Latin ed. p. 141*]

At least, it constitutes a declaration of the crime, as we have said in Volume I, number 115. And according to the most probable opinion, which is followed by Sanch. de matr. lib. 2. d. 43. n. 5., Less. lib. 2. cap. 29. d. 8. and cap. 34. d. 34., Cajet. in sum. v. Pœna, Soto lib. 1. q. 6. art. 6. and Salm. cum Mol., Sal., Pal., Led. et Gran. de leg. cap. 2. n. 60. (contrary to Vasq., Bon. etc., who maintain that no sentence is required if the accused can undergo the penalty without infamy); because it is too harsh to require the accused to suffer the penalties and deprive himself of his possessions. But if those

examiners wished to be absolved from the stain of simony, I do not know how they could be absolved, unless they relinquish the benefits, since it is said by the Council of Trent, in the aforementioned passage: "from which [simony] they cannot be absolved, unless the benefits are relinquished." Regarding the incapacity incurred to obtain other benefits, the first opinion holds that the incapacity arises before the judge's condemnatory sentence. Thus, Bon. d. 1. q. 7. p. 2. diss. 2., Lâym. lib. 4. tract. 10. c. 8. n. 74., Fill. tract. 45. c. 13. quæst. 9. n. 26., and also Ugol, Henr., Met., Lop. et Rodr. apud Salm. c. 4. n. 20. The reason is that it is expressly stated in the decree of Pope Pius V, as mentioned above, where it was decreed: "Whoever has obtained a benefice or ecclesiastical office through simony, let him be perpetually incapacitated from obtaining such things and any other benefices: to incur such incapacity."

[*Latin ed. p. 142*]

However, penalties that inflict incapacity do not require any sentence, as stated in book 1, chapter 114, of the laws. The second opinion, however, is more common and more probable, and is held by Sanch. in his *Consilia*, book 2, chapter 3, question 104, number 14; Nav. in *De Simoniis*, question 92; Cabass. in *Theoria Juris*, book 5, chapter 8, number 9; Suar. in *De Relationibus*, volume 1, book 4, chapter 58, number 11; Viva in his *Opuscula De Beneficiis*, question last, article 3, number 2; Elb. in *De Simoniis*, number 627, with Anacl., Pichler, and Salm., chapter 4, number 21; P. Nav. in *De Restitutione*, chapter 2, number 43. And Lessius and Palotius, apud Salm., call it probable, that the aforementioned incapacity is not incurred before the sentence of the judge condemning. The reason is: 1. because the bulla mentioned, from Pope Pius, must truly be understood only for the external forum, when it speaks of the condemned; for there it says: "Whoever has been convicted of having committed the detestable crime of the wickedness of simony, etc." 2. Because, even if this bulla is understood in the internal forum, nevertheless, it has not been received, as Suar., Nav., Sanch., and Salm. assert in their works. At the very least, as Viva says, the bulla has been received only in the first sense of the external forum. Nor does this contradict the opinion we have followed in book 1, number 97, namely, that in doubt whether a law has been received, the law is binding; for here we are not dealing with a doubt, but with a probable opinion, since it is very probable, from the authority of the Doctors, as mentioned above, that this law has not been received. In doubt, presumption stands for the law, when the crime is committed in a place where the law is not.

[*Latin ed. p. 143*]

When a just law is received, it is not presumed to be invalid. However, when it is probable that the obligation of the law never began (or that the law has been abolished), then the presumption in favor of the law

ceases, and freedom is possessed, as taught by Sanchez, Layman, and Palafox with Salm. on law, chapter 2, paragraph 120. Nevertheless, no one doubts that the incapacity to hold the same benefice, having been received through simony, is incurred by the very fact itself, before any judgment, since this statute is of ancient law in the Extravagantes 2, on simony, concerning whose reception there is no doubt. Sanchez, L, chapter 15, notes, with Navar and others, that, following a condemnatory judgment of a judge, the person found guilty of simony will indeed be incapable in conscience of holding any other benefices, since through the judgment he becomes infamous and, consequently, irregular. When I mentioned the aforementioned Extravagantes 2, I considered it necessary to note what is stated at the end of it: there, it is commanded to all and each ecclesiastical and secular persons, in virtue of holy obedience, to reveal to the Pontiff, either by themselves or through others, all those whom they know to have committed or procured such simony, or to have been intermediaries, as soon as possible, even if they themselves are accomplices... And if they do not do so, they shall not be absolved until they reveal the aforementioned, and accomplices detected shall be punished more severely. But the aforementioned Extravagantes was not complete in this regard.

[*Latin ed. p. 144*]

It is a practice that has been received, and no one is obligated to do so, unless he is a member of the Roman Curia, as several grave theologians assert in Cabass's *Theologiae Moralis Jurisdictio*, book 5, chapter 8, number 5, citing Navarrus, Cajetan, and Suarez, among others.

The question is raised: 4th, whether the election of the Supreme Pontiff, if tainted by simony, is invalid. Suarez, in *De Simonia*, chapter 57, and Fillon, among others, argue against this in Viva's *Opera de Beneficiis*, question 10, article 1, number 8, and they prove this from chapter 6 of the Decretals, where Alexander III states that he who is elected and received by the universal Church, with the agreement of two factions of the cardinals, shall be considered the Roman Pontiff without any exception. The reason is that if such an election were invalid, the Church could easily be without a head; at least, it would sometimes be uncertain.

However, Cabass, in *Theologiae Moralis Jurisdictio*, book 5, chapter 5, number 17, and Bonaventure, in *Quaestiones*, question 7, paragraph 2, and Viva in the aforementioned passage, argue more correctly, following the common opinion. This is clearly proven from the decree "Si quis" in Dist. 79, where Nicholas II decreed: "If anyone is enthroned in the Apostolic See through money or human favor, without the concord and canonical election of the cardinals and subsequent religious clergy, he shall be considered an apostate, not an Apostle." This is more clearly confirmed by the Council of Lateran, under Julius II, session 5, where it was stated: "With the approval of the Holy Council, it is decreed that the election of

the Roman Pontiff, if made through simony, is null and void, and that no power, either spiritual or temporal, shall be granted to such an elected one."

[*Latin ed. p. 145*]

By these words, it is evident that a Pope, elected in such a manner [i.e., through simony], cannot validate his election. Neither does the text in c. [presumably a canon law citation] cited above present an obstacle, nor the argument that the Church would remain without a head; for, as Lessius rightly states in *lib. 2, cap. 35, n. 46*, and Viva agrees with this opinion in the same place, according to the authority of Barbarius, if a common error existed concerning a colored title, and if the simony were concealed, in that case the Church would supply the jurisdiction; therefore, all acts of such a Pope would be valid, and his definitions would still possess infallible authority, as is declared in the cited chapter. Conversely, if the simony were public. Furthermore, as Suarez states, Viva considers it frivolous to say that the bull of Julius II, as mentioned above, is not accepted.

ARTICLE THIRD. WHAT MUST BE RESTITUTED WHICH WAS RECEIVED THROUGH SIMONY.

113. Nothing spiritual received through simony must be restored, except the benefice and its fruits.

114. The price received for a benefice, ordination, etc., must be restored.

115. To whom must it be restored?

116. To whom must the fruits of a benefice received through simony be restored?

117-120. Who may dispense in the aforementioned penalties?

113. » RESP. 1. o Nothing spiritual received through simony must be restored, except the benefice (under which, according to Bonaventure, is included the pension, although Lessius denies this).

[*Latin ed. p. 146*]

It must be restored. The reason is that either other things cannot be restored, such as the sacraments, or they are not to be restored before a sentence is passed: since the canons have not prescribed otherwise, according to Less. n. 68, Suar., Fill., etc. (Salm. c. 4. n. 23, 27, and 28, with Sanch., Soto, Pal., hold the same opinion) against Azor., Laym., Bon. d. 1. q. 7. p. 5. diss. 2. I said, besides the benefice; because this cannot be retained even before the judge's sentence: as is clear from 2. extrav. Cum detestabile, concerning simony. (The same must be said of the price accepted for the collation of orders and entrance into religion, according to c. De hoc, and c. Veniens, concerning simony. See Salm. c. 4. n. 29.) 2. See Bon. in the aforementioned place, where he also adds that the fruits received must be restored, both because they cannot be retained by any just title, since the acquisition of a benefice is inherently invalid by the very act of simony; and also because it

is expressly stated in extr. Cum detestabile, concerning simony. See S. Th. 2. 2. q. 100. art. 6., Nav. l. 5. cons. 62., Less. l. 2. c. 35. dub. 31. » 114. » Resp. 2.º The price accepted for a benefice, the collation of orders, sacraments, and sacramentals, if it notably exceeds what could have been demanded for its support, as well as for admission into religion, is to be restored by positive law. However, the latter is to be restored only after a sentence has been passed, if the person remains in the monastery; because, for the most part, for reasons of...

[*Latin ed. p. 147*]

"Foodstuffs can be retained, provided they are converted to common use. See Bon. in the cited place, Less. book 2, chapter 36, section 3 (with Pal., Laym., Sanch. apud Salm. ibid. number 31, in fine, and Elbel number 635, as found in the external Sanch. on simony, where it is said that goods received through simony as an entrance into religion, can be retained and applied for the common use of the monasteries)." Response 3rd: "That which is received for a benefit or another spiritual favor, and not followed by a collation, must be restored to him from whom it was received, by natural law, because there is no title for retaining it, since it is not given for that for which it is given. But if the thing is given through simony, and the simony is complete on both sides, it is more probable that it should be restored to the Church, and not to the giver; because the Church intends to punish both, as Less., Laym. in this cited place, section 9."

115. The question arises here: 1st, to whom should that which has already been given as a spiritual thing with simony, and for which a price has been received, be restored? There are three opinions, all of which are probable. The first holds that the price should be restored to him who gave it; because, since the recipient was incapable, by positive law, of acquiring it, the ownership remained with the owner, who did not intend to relinquish it from himself, except insofar as he transferred it to the seller. Thus Sanch. cons. book 2, chapter 3, doubt 114, number 11, Less. book 2, chapter 35, number 171, with Val., Soto, Bann., Arag., Rodr. etc. apud Salm. chapter 4, number 30.

[*Latin ed. p. 148*]

The second point holds that the benefit must be restored to the Church in which it is located, according to canons *De hoc* and *Audivimus, de sim.*; and this is imposed as a penalty for the irreverence shown to the Church in the sale of one's possessions. Thus, St. Thomas [Summa Theologica] 2-2, question 100, article 6, ad 3 and 5; Salm. [Salmeron's commentary] number 31; St. Antoninus, Layman, Suarez, Cajetan, etc., with Bus. [Busenbaum's commentary], as mentioned above. The third point states that, according to custom, it can also be restored to the poor, as St. Thomas also admits in 2-2, question 32, article 7, and question 62, article 5, ad 2, with Pal., Vict.,

Cov., etc., and Layman calls it probable, in Salm., number 31. Therefore, the recipient of the price, according to these opinions, can, as he wishes, restore it either to the giver, or to the Church, or to the poor, and even to himself, if he is in need, as Salm. states there, with Sanchez. However, the price received for entry into religion must be restored to the giver, so that he may contribute to the monastery to which he is transferred, and which is obligated to support him, as stated in the canon *Veniens, de sim.*. If, however, he remains, the monastery can retain what was given, as Sanchez, Pal., Suarez, and Layman state in Salm., in the aforementioned place, number 116. Question 2: To whom must the fruits of a benefit acquired through simony be restored? St. Thomas teaches that they must be restored to the Church in 2-2, question 100, article 6, ad 4, provided that those who committed the simony do not receive any benefit from this. But it is probable that they can also be restored to the poor, or...

[*Latin ed. p. 149*]

To the successor in the benefice, or even to compose a settlement with the pontiff concerning said fruits, as stated in Salm. book, number 32, with Nav., Silv., and Sanch., 117. It must be considered here whether, in the aforementioned penalties, absolution or dispensation can be granted. It is certain from the canon penitential concerning simony that only the pontiff can absolve from excommunication and suspension in the order received through simony; unless these censures are hidden; which then even a bishop can absolve, according to chapter 6. It is permitted by session 24 of the Council of Trent; and also mendicant confessors, as Elb. states in number 645, with Suar., Pal. They say, however, Less. book 2, chapter 35, number 54, and Salm. chapter 4, number 54, in fine, that a bulla to the contrary is not accepted by St. Pius V in this matter. Regarding the suspension of legitimately received orders, it is probable that a bishop can absolve it, as Suar. 4, on simony, chapter 61, number 4, and Salm. number 34 state; although it seems more probable the opposite, according to Pal. and Silv., in the case where a cleric has knowingly been ordained with simony; and the same is said ibid. concerning the suspension of the ordaining prelate. Finally, concerning the inability to obtain other benefices, besides that obtained through simony, a bishop can grant dispensation, as Sanch. book 2, chapter 3, d. 120, article 31, and Silv., Im., Fel. state. This is excepted if the simony was confidential, or if the simoniac is awaiting sentence; because then he is irregular due to the infamy of the law. Salm. d. n. 38. Lic. Theol. Mor. T. III. G.

[*Latin ed. p. 150*]

in fine et Elb. n. 631 et 645, cum Less., Pal., Henr. etc. 118. "A great doubt exists whether a bishop can grant a dispensation to hold a benefice received through simony. The following words of the pontiff should be

noted in the penultimate chapter concerning elections: If the election of someone, because of simony, should be declared invalid, even though he was unaware of it and the election was considered valid, then the bishop cannot grant a dispensation to that person concerning the prelate to which he had been elected at that time, although, concerning the person who, unknowingly, accepted a simple benefice through simony, the bishop's dispensation can remove the impediment after a free resignation. From this, the following is answered: 1st, that if the benefice is simple (even a canonry or a dignity to which no care of souls is attached, as Sanchez and Navarrus state in Salmeron, chapter 4, paragraph 35), and it was received through simony unknowingly (that is, when the simony was committed by another beneficiary who was unaware of it, as the Doctors commonly understand, as stated in the dictionary, paragraph 35, in fine), then the bishop can grant a dispensation even in that case, provided that the beneficiary voluntarily renounces. Thus, Sanchez, book 2, chapter 3, doubt 120, paragraph 22; Palafox, book 3, page last, paragraph 3; and Salmeron, book, paragraph 35, with Silva, Navarrus, and the Glossary in the chapter 'A nobis de sim.' See the aforementioned paragraph 111. It is answered 2nd, that if, however, the benefice is a curacy, the bishop cannot grant a dispensation in..."

[*Latin ed. p. 151*]

That case; but it may occur in another instance, without the knowledge of the other party. Salm. n. 37, with Panorm., Pal., Sanch., etc. It is answered in the third place that if anyone knowingly accepts a benefice through simony, whether simple or plural, even if he spontaneously renounces it, the bishop cannot dispense to him to hold that same benefice, nor for that, nor for any other benefice, as taught by St. Thomas, d. q. 100, a. 6, ad 7, and Salm. ibid., n. 38, with Soto, Pal., and Sanch.; although the bishop can dispense to him to obtain other benefices, unless it is a confidential simony, as we shall say shortly, n. 117, at the end, and n. 119.

Question 3: Whether the aforementioned dispensations can also be granted by a bishop who himself committed the simony. Panorm., etc., probably deny this, but Salm. ibid., n. 39, with Nav. and Sanch., more probably affirm it, from the chapter "Si quis presbyter," concerning ecclesiastical matters, and from the penultimate canon concerning simony, where the power is granted to bishops without distinction.

Question 4: Whether a pontiff, bestowing a benefice upon someone whom he knows to be unworthy of receiving it due to simony, is considered to be dispensing. Pal. d. 3, p. ult., n. 9, Suar. lib. 4, cap. ult., n. 14, Soto lib. 9, q. 5, art. 2, and Salm. cap. 4, n. 40, with Torre, probably affirm this. And the same is said by them ibid., with Soto and Torre, if the pontiff sells the

benefice to someone. See Croix, n. 232. Note well.

[*Latin ed. p. 152*]

However, if the Pope confirms the election, unaware of the vice of simony, even if in the bull he states that he is supplying all defects, the confirmation is not valid; because it is understood that this refers to other defects in the election, and not to simony, as Croix, number 234, states.

[*Latin ed. p. 153*]

TREATISE SECOND ON THE SECOND PRECEPT OF THE DECALOGUE. THIS PRECEPT FORBIDS all inordinate use of the name of God, which most commonly occurs through blasphemy, rash swearing, making promises and not keeping them; concerning which we shall speak here. CHAPTER FIRST. WHAT AND HOW MANY KINDS OF BLASPHEMY. 121. What is blasphemy? 122. In how many ways is blasphemy committed against God? 123. When is heretical blasphemy to be denounced? 124-125. What words are, or are not, blasphemies. 126. Should one explain [the meaning] if someone directly intends to dishonor God? 127. To what is the ordinary [person] to be held? 128. What if someone says: "O death of God! O wounds of Christ!" being angry against a man? 129. Is it blasphemy to curse creatures and days? 130. Is it blasphemy to curse the dead? Is it blasphemy to curse the faith? 131. Is it blasphemy to invoke a demon upon others or upon oneself? 132. Do the species of blasphemy against God and the saints differ? 121. "R ESP. Blasphemy, directly opposed to the praise of God, is a word of malediction or reproach, or a contemptuous expression, directed against God, whether it is done..."

[*Latin ed. p. 154*]

"By attributing to creatures that which is due to God, or even by saying true things, but which tend to His dishonor or contempt; as happens through expressions of indignation and contempt, etc. Thus, see *Comm. DD. S. Th. 2. 2. q. 13*, *Bon. disp. 3. quæst. 8*, *Sanch. 2. mor. c. 82*, *Laim. lib. 4. t. 10. cap. 6*, etc."

Therefore, it is resolved: 122. 1. "He is a blasphemer who, against God, curses Him or speaks evil of Him; likewise, he who says that he will do something against God's will; likewise, he who denies God, or who swears seriously by false gods. He is also a blasphemer who calls God a tyrant, unjust, or who says that He will not or cannot help us, or that He does not care for our concerns; or who says that a demon is more faithful, more powerful, or that not everything is well ordered, or that certain things could or should have been done better in creation, etc. If someone believes that these things are so, and expresses this belief not merely in anger or despair, then it is heretical blasphemy, that is, blasphemy joined with heresy; which must be added in confession, because it differs in appearance from an imprecation." *Hurt. 2. 2. d. 91. sect. 12. §. 54.*

123. "He who hears someone uttering heretical blasphemy is bound to denounce him within six days, as stated by Viva de I. præc. quæst. 6. art. 2. n. 11, and Salm. tr. 21. c. 3. n. 129, according to the edict of the Inquisition, as they say. But this period of six days seems to be according to the Inquisition of Spain; for..."

[*Latin ed. p. 155*]

In the edict of the General Inquisition, a time period is specified. See what is said in book 4, number 252, concerning "Rogabis." However, if the blasphemy is not heretical, for although the obligation to denounce it exists according to the decrees of Julius III, Pius I, and the Lateran Council (see Salm., tract. 21, chap. 3, n. 129), nevertheless Sanchez, in his decrees, book 2, chap. 32, n. 47, along with Med., Man., and Lop., and Salm. in the aforementioned place, with Bon., Villal., Trull., and others, state that in these blasphemies, a correction should be attempted first, and if it is successful, the denunciation should be omitted; indeed, Mazz. (see vol. 1, page 276), Tamb., decrees, book 2, chap. 6, § 4, n. 6, and Viva, in his dictionary, in the same place, state that, due to custom, these decrees do not seem to be binding up to now.

124. Furthermore, it should be noted that blasphemy consists in saying: "God wills it, or God does not will it; may God perish; in contempt of God; I deny the sacraments." Also, it is blasphemy to say that a demon is holy, omnipotent; but not if he is called powerful, wise, etc., according to his nature; provided that these words are not intended to give him any honor. Nor is it blasphemy when a word is altered or truncated, for example: "I deny God... Holy God... Holy Diana"; probably with Viva, in the aforementioned place, n. 8, Tamb., n. 18, and Croix, n. 252, with Gob. and Tann. Nor is it blasphemy to say against men: "Blood of God, body of God." Viva, n. 9, according to common opinion.

[*Latin ed. p. 156*]

With Layman and Tanquerey, no. 25; unless the indignation is directed against God. And this is to be held with Busa and others, infra, no. 128, whatever Croix may say in book 3, part 1, no. 248, namely, that these words, by themselves, always imply contempt for God. Nor is it blasphemy to say: "By the life of God, or of the saints." Commonitor, Viva, ibid., and Tanquerey, no. 23, with Sanchez, against the Decretum. Nor to say: "I deny God, if you do not strike me." Thus, Tanquerey, no. 22, with Salmeron; and it seems probable against Sanchez and Palearius: because, at that time, the one who utters these words does not have the intention of denying God in the case in which he is not struck; but because he certainly intends to strike, he says that he does not believe in God, if he is not struck, intending thereby to say: "Just as it is certain that I will not deny God, so it is certain that I will strike you." Nor to say: "This is true, as God is true." Tanquerey, no. 16, with

Azorín, Bonaventure, and Medina (against Suarez and Soto). And this common opinion is held by Mazzella, with Bonaventure, and others; because, at that time, created truth is not commonly equated with uncreated truth, but only a certain similarity is indicated, along with some hyperbole. Nor to bring forth the words of Scripture in order to say something facetious; provided that...

[*Latin ed. p. 157*]

Let it not be used for shameful purposes, nor let it be uttered so frequently as to breed contempt. Tamburrini and Villalobos, ibid., and Gobbi, apud Croix, n. 251. Nor should one swear by the members of Christ. Tamburrini, n. 23, with Sanchez, Secundus, if one swears mockingly or by dishonorable members. Therefore, a true blasphemy is to say: "Potta di Cristo; Potta di S. Paolo," if it is understood as referring to the natural parts of a woman, which is the meaning of that word. But such a meaning is generally neither intended nor known; therefore, generally speaking, the aforementioned blasphemy excuses the mortal from sin: all the more so because the word "potta" is ambiguous, as it denotes, even in the Italian language, nothing other than an interjection of anger, as I observed in a recently published vocabulary of the Etruscan language; and this, Mazzola rightly believes, in *De Blasphemis*, § 2, dub. 2. Thus, also, those from the countryside who blaspheme God or the saints can be excused from mortal sin by adding: "fuori di Dio" or "se l'ho fatto io." For although it may seem to be a true blasphemy concerning oneself, such a condition does not remove the injury that is inflicted upon God or the saints by the initial words, as Sanchez, *decres*, lib. 2, cap. 23, n. 3, and Spotorno, *De I. præc.*, cap. 10, n. 22, and Paleari, *tract. 17*, disp. 2, p. 2, § 1, n. 3, with Suarez and Valentia, also Elbing, n. 180, and Croix, lib. 3, p. 1, n. 250, with Tamburrini and Diclario, teach; and it is not required for the sin of blasphemy that there be an intent.

[*Latin ed. p. 158*]

To dishonor God, but it suffices that the utterance tends to diminish divine honor (whatever the Governor may say at Croix, believing that it is not blasphemy if someone, for a grave reason, utters blasphemous words only in jest); hence, Sanchez, n. 41, and Spina, in loco, with Tamburrini, state that every blasphemy, even if uttered in jest, is mortal, unless the jest removes all manner of irreverence towards God (which they say rarely happens), as Sanchez says, if someone, for the sake of jest or mockery, swears by false gods. However, the modern author of the booklet entitled *Istruzioni per i confessori di terre e di villaggi*, chapter 4, page 141, and Father Sarnelli, author of the book *Opera contro la bestemmia*, page 2, page 52, and also Father Mazzola, on blasphemy, in loco, with Dian and others, probably argue that, at least due to ignorance, a rustic person can easily be excused from mortal sin who does not intend to blaspheme the

Holy One when he adds "se l' ho fatto io," intending thus not to blaspheme. Furthermore, even speaking of oneself, it is probable that such a saying is not true blasphemy: for the true meaning of any proposition is formed by its final words; and therefore, it can rightly be said that the aforementioned proposition – "mannaggia santo N., se l' ho fatto io" – when taken completely and in its entirety, does not inflict a true injury upon the Holy One, provided that condition is present – "se l' ho fatto io." Another.

[*Latin ed. p. 159*]

However, to utter blasphemous words externally while inwardly not intending to blaspheme, as stated above, is different from uttering the aforementioned proposition in which, through the condition expressed therein, the speaker clearly demonstrates that he does not intend to inflict any injury upon the Holy. Conversely, it must be said that if one adds such words not to mitigate the malice of blasphemy, but out of contrition, or to repair blasphemy already uttered, then the case is different. 125. "2. Other signs against God are also considered blasphemy, even if the words are absent: such as spitting into the heavens, gnashing one's teeth, etc.; indeed, even blasphemy itself can be committed inwardly, just as mental praise of God can be offered." 3. He also blasphemes who is contemptuous towards the saints or sacred things, understand that the saints are those who have, at least virtually, a connection to God, so that even their moral honor is considered to be touched; otherwise, it would only be against individuals, if, as some men on earth have been, one were to say things against them. This is venial if done in jest, for example, if one were to call the saints Crispin and Crispinian "sewers," John and Paul "eunuchs." However, it would be grave if these things were said out of contempt, or out of hatred or indignation against the saints. Although blasphemies against God do not admit of small matters, many admit of them in those things that are against the saints. Est. f. 1. extr. "

[*Latin ed. p. 160*]

4.º He also blasphemes who, though angry, and not against God, but against others or things, utters words which, by their meaning, manner of speaking, or circumstances, seriously imply a diminution of divine honor or an insult: for although he may not intend it formally, he intends it indirectly and virtually; although this is often venial only, if it is done materially alone. 126.

5.º In confession, it must be expressed if anyone (which, however, rarely happens) intends to dishonor God directly and formally, or if he is formally angry with Him. Laym., loc. cit. (with common opinion apud Salm., tr. 21, c. 3, n. 123, with Less., l. 2, c. 45, n. 33. Otherwise, if he blasphemes only out of anger).

6.º He also blasphemes who uses insulting language concerning a

member of Christ: for example, "May the blood of God perish," "wounds of God," "death of God," "head," "passion," "sacraments," "chrism," and similar sacred things; since these things were given not to be destroyed, but to save us, and people generally understand that great contempt for God and these things is contained in them. Laym., ibid., n. 12. 127.

7.º He who has the habit of using such words is bound by mortal sin to seriously try to eliminate it. If he does so and yet falters, he may sometimes be excused, because oaths are so infused by natural impulse that they are not voluntary, neither in themselves nor in their cause.

[*Latin ed. p. 161*]

"Indeed, having retracted a purpose with effective contrition." (Layman, book 1, volume 2, chapter 3, paragraph 6. See Escobar, volume 1, chapter 3, paragraph 36.) "If he does not make an effort, and the confessor notes this, he should not grant him absolution with discretion." (Layman, cited above.) "Here, it should be noted that some who utter blasphemies say that they did not intend to commit the evil of blasphemy. Some Doctors also say that these individuals can sometimes blaspheme without intending to, due to the force of anger or acquired habits. But I believe, with the cited author (Istriz, ecclesiastical writings, page 145), that there is always some awareness, at least confused, of the malice of uttering blasphemies; for anger or habits ordinarily do not so obscure the mind that one is entirely unaware of the evil of blasphemy, even if that evil is not consciously recognized."

"8th. Meanwhile, many are excused due to inadvertence in a sudden disturbance, although it does not seem entirely sufficient that some say, that they did not intend anything other than to use certain words as interjections expressive of their anger; firstly, because they can equally become accustomed to using other words of anger and of serious will, and secondly, because, even if they could not, it does not seem permissible to use words that are commonly understood by others to be dishonoring to God."

"128. 9th. But if someone, in anger against..."

[*Latin ed. p. 162*]

To call death "the death of God," or the sacraments, for example, "O God, wounds!" without causing offense and without those circumstances which imply contempt, are not blasphemies, but a vain usurpation of the divine name, which is prohibited by this precept and is a grave venial sin, as Cajetan and Arminius teach (see blasphemies), and as Sanchez teaches (see d.n. 124). Although, because of the danger of falling into blasphemies, and because scandal is rarely absent, and because, nevertheless, among those who hear it, God and His sacred things are considered to be dishonored, such expressions are rarely excused, and rightly, men should be deterred from similar words, as Layman notes in the cited passage.

The question arises here whether cursing creatures is a blasphemy. A

distinction must be made: if creatures are cursed in relation to God, such as cursing the rain, the winds, as if they were commanded by God, or with the addition of the word "God," for example, "Mannaggia il fuoco di Dio" (see Tamburrini and Mazzola), then it is certainly a blasphemy. The same must be said if a creature which has a special relationship to God is cursed, such as our soul, the Catholic faith, heaven, and the like. See below. Otherwise, if the indignation is directed at creatures without relation to God. Thus, the commentators Tournhem, 1.3, p. 339, and Viviano, d. qu. 6, art. 2, n. 7, with Bonaventure and Lessius, from D. Th. 2.2, qu. 76, art. 2, teach:

[*Latin ed. p. 163*]

To curse things that are irrational, insofar as they are the creatures of God, is a sin of blasphemy; but to curse them considered in themselves is idle and vain. Therefore, according to St. Alphonsus and others, it is not a grave sin to simply curse the hour, the day, or the year, unless the word "holy" is added; or unless the day itself suggests something special of sanctity, such as the days of Easter, Epiphany, Christmas, and Pentecost, as Salm. teaches in *Tractatus*, 21, chapter 3, number 121, and Elb. in *De Illis*, with Sanch., Laym., and Spor., and the author expresses this more clearly in the aforementioned place (*Istruz. per li conf.*, page 142). The reason is that any dedication, where something special of sanctity shines forth or is explained, is always, at least indirectly, referred to God, who is the Author of all sanctity.

But the question arises whether it is truly blasphemy to curse the whole world, commonly: "Mannaggia tutto il mondo." In this case, although I have considered the matter morally, I have not found a clear discussion of it; I have only found it barely indicated by two authors. The aforementioned author (*Istruz. ec.*, *De Illis*, decision, page 143, to me) asserts, almost in passing, that this curse is not, in itself, a grave blasphemy. But I believe the opposite to be entirely true, and I am led to this conclusion by that common opinion which all doctors universally teach, namely, that to swear by creatures in which special goodness, wisdom, or divine power shines forth is,

[*Latin ed. p. 164*]

By heaven, by earth, and even by the soul (as is more probably rightly held by Salm. de jur. cap. 2. n. 28, with Suar., Sanch., and Far.), and similar expressions, constitutes a true oath. Thus, in the treatise on oaths, Bus. n. 138, Laym. c. 1. n. 5, Spor. c. 1. n. 7, Pal. d. 1. par. 1. n. 5, Salm. c. n. 12, Bon. quæst. 1. p. 1. n. 4, Fel. Potest. c. 2. n. 1554. And this is clearly proven from Deuteronomy, chapter 4, verse 26, where Moses swore, saying: "I call heaven and earth to witness." And from Matthew, chapter 5, verses 34 and 35: "But I say to you, do not swear at all, neither by heaven... nor by the earth." Where St. Augustine, in book 1 of *de serm. Dom.*, chapter 17,

says: "When you swear by heaven or by earth, do not think that you are not obligated to swear an oath to the Lord." As I say, therefore, to swear by these creatures is a true oath, because, since the power of God shines forth especially in them, God is indirectly invoked as a witness through them. Thus, for the same reason, to curse these same creatures is a true blasphemy, because God is indirectly contemned in them. And this is held by Felix a Panormo in *de II. præc.*, chapter 1, n. 1540, where he says that an offense against creatures is not blasphemy, unless the divine goodness shines forth especially in them, as in heaven, earth, and the soul. However, one would be excused from the sin of blasphemy if he were to curse the world, understanding that world to be that which is opposed to God and the saints, according to John 15.

[*Latin ed. p. 165*]

18. If the world hates you, know that it hated me before it hated you. But, speaking generally, I believe that country folk who curse the world, for the most part, sin gravely, while they themselves accuse themselves of such cursing with great horror. To curse the devil, however, is rightly considered by the *Tametsi* (Decr., lib. 2, cap. 6, § 4, n. 11) to rarely be a mortal sin, because he is always cursing, either as the author of evil or as the enemy of God; therefore, setting aside the act of impatience, it is not even a venial sin, according to the *Tametsi* in the same place, and Mazzarelli probably agrees in *De II. præceptis*, q. 3, c. 2, § 1, and Elbarto, n. 21. However, Vives, n. 10, and the *Tametsi*, n. 18, along with Bonaventure, Lazarini, and Paleari, note that when there is doubt as to whether something is or is not blasphemy, it should not be considered blasphemy.

130. It is also asked here whether a curse against the dead, which is commonly called a "bestemmia dei morti" (curse of God against the dead), is a true blasphemy. A case concerning this is not found among moral doctors; only mention is made of it by the author of the aforementioned booklet (*Istruz. per li confess. ec.*), a booklet which has been held in great esteem and approved by the most illustrious and learned Bishop D. Julius Torni, of exceptional erudition and of the same distinguished rank. Furthermore, in the aforementioned book—*Opera contra l'abuso della bestemmia*—it is revised by the most illustrious and erudite D.

[*Latin ed. p. 166*]

To the Most Reverend Bishop Scaja of Castrum, who at that time was a public and distinguished professor of theology at the University of Naples. In both books, it is stated that the aforementioned expression is not at all blasphemy, but merely a slight curse. Furthermore, I later found Mazzini to hold the same view in volume 1, page 338. And I believe that this view should be held entirely, whatever anyone may say, as I demonstrated in a certain treatise in the form of a letter, which I requested to be printed on this

subject some time ago, and which I now include here. The entire reasoning rests on this point: that this type of curse does not contain, either in itself or through its relation to the minds of those who utter it, any injury against the souls in Purgatory, as the opposing side contends. Not in itself: because this word, when applied to a dead person, does not properly signify anything other than corpses (for the predicate "dead" properly belongs to bodies, not to souls); at most, it signifies people who have ceased living, who may be saved and are more easily condemned, according to the common opinion, which holds that the majority of the faithful are still to be condemned, and not the souls in Purgatory, unless perhaps in some circumstance of speech where mention is made of sacred things; for example, when it is said: "Mass, day, or gathering for the dead." In other expressions, this word does not signify, either in itself or through its common acceptance, anything of the kind.

[*Latin ed. p. 167*]

The souls in Purgatory, as it is said: "He fears the dead." The dead are of no help; a decorated tomb and similar things are of little use. And this does not seem to be able to be doubted. They insist that those who curse the dead, at least curse the very souls of those dead, which are found separated from their bodies. But I reply that to curse the soul of someone will be mortal, when in the utterance of the curse, the word "soul" is expressed, indicating the excellence of the divine power which shines in the soul, as I said above, in chapter [number] and verse. But not when one curses a man, without mentioning the soul: just as to swear by the soul of someone would be a true oath, but to swear by someone, namely by Francis, by Peter, would not be. Therefore, just as cursing a living person is not judged to be a grave sin, so neither is cursing a deceased person. All the more so, because, as I will soon say, the curse of the dead is more closely related to the bodies, which alone die, than to the souls, which are immortal. And it is certain that those who commonly curse the dead do not intend in any way to curse their souls: they truly disregard the consideration of souls and bodies; indeed, ordinarily speaking, they do not intend to curse the dead at all, but to express their anger towards the living, to whom they direct that curse as an insult. Therefore, the author is correct.

[*Latin ed. p. 168*]

In the aforementioned booklets – Instructions for confessors – the aforementioned curse is more properly called an imprecation. This is evident from the practice of confessors, who, when they question penitents as to whether they intended to curse the souls of the blessed, or at least the souls of the dead, respond with horror: "May it be far from me; may God avert it." This confirms our assertion with a general rule assigned by Laym, book 4, treatise 20, chapter 6, paragraph 12, where he teaches thus: "If the penitent

denies that the affect of his indignation extended directly to God, but only against the person against whom he was angry, then the confessor should pay attention to the words: for if, according to him, they do not express any diminution of divine honor, then it is not to be considered a blasphemy, and therefore not a mortal sin." To this is added another general rule, that in order to condemn something as a grave sin, it must contain something of its grave malice. Indeed, Pal., Bon., Lazar., with Tamb., book 2, chapter 6, section 4, paragraph 19, and Viva, question 6, article 2, paragraph 10, teach that in doubt as to whether something is or is not a blasphemy, it should not be considered a blasphemy. How, therefore, can a curse against the dead be condemned as a mortal sin, when, as we have said, it contains no injury to God or the saints, nor is it directed against the dead themselves by those who utter it, who, in uttering it, do not even understand what they are saying?

[*Latin ed. p. 169*]

Regarding this point, for my own security, I consulted the venerable and renowned congregations of priests, missionaries of Naples, both regular and secular, and they responded unanimously that such a curse should in no way be considered as blasphemy, nor as a grave sin. And I have included their responses in the aforementioned letter. From all of this, I believe it is worthwhile for confessors and preachers to diligently instruct the uneducated people on this point, believing it to be mortal, lest so many souls perish miserably through ignorance, due to a mistaken conscience of mortal sin. Nor is it proper to say that this knowledge will lead to more frequent abuse of this curse: for it is better to allow countless venial sins than one mortal sin. And would that such ignorant people, out of fear of a grave sin, would abstain from uttering this curse! It is a bad thing that some, even with such a conscience of grave sin, do not cease from this vice, and conversely, are condemned because of that ignorance. But see, at the end of this chapter, the response which we have published concerning this curse of the dead, against a certain letter presented to us by an anonymous person. Furthermore, we note that it is not, in itself, blasphemy, if someone curses the faith of another; provided that they do not express or intend to attack the faith itself.

[*Latin ed. p. 170*]

The term "holy" or "Christian" is used, because the word "faith" by itself does not necessarily signify the faith of Christ; for human faith can also be understood. And those who curse the faith never understand that they are blaspheming the holy faith. And thus, Mazz. l. c. 131. Whether it is a mortal sin to curse or to invoke evil upon others, see what is said in book 5, chapter 83. 10. To invoke a demon, hail, lightning, etc., upon others in anger, although many confuse this with blasphemy, is nevertheless not

blasphemy, but a terrible curse, which, most often (at least when it is said against those who are loved by the angry person), due to a sudden disturbance, inattention, and lack of deliberate will, is only venial: for when people reflect, they say quite different things than what they said in anger, so that it seems to be only certain interjections to express anger, although it is not fitting for Christians to use such absurd interjections. Bon. l. c. from Nav., Tol., Reg. etc. Bald. dist. 25. n. 10., where he also believes that to curse a demon upon oneself out of anger is only venial, because it does not gravely injure charity. (Thus, it is also only venial to curse someone without intending that they be snatched away by a demon. Thus, Esc. ap. Tamb. lib. 2. c. 6. §. 4. n. 12.). However, Mol. etc. would not dare to excuse this from being a mortal sin, because of its filthiness, horror, and perversity. Grave.

[*Latin ed. p. 171*]

"However, it is so if subjects, whether to superiors or to parents (even if only materially), curse, especially in the face: because this is a grave offense against due reverence. Bald. loc. cit. See below, Book 5, Chapter 3, paragraphs 6, 11. In anger, to invoke a demon without cursing is not, in itself, a sin; however, the frequent mention of its name does not befit a Christian, and, due to the potential for scandal, it could be grave. Laym. loc. cit. " 12. In confession, the quality of the blasphemy must be expressed, namely, whether it was against God or against the saints: for it is probable that these differ in species, according to Suar., Sanch., Reg., Azor., Laym., Dian. r. 5o., Lug. d. 15. n. 2; however, the opposite is held by Trull. l. 1. n. 11. d. 2. n. 5. with Dian. p. 1. de circ. r. 3o. " 132. Whether blasphemy against God differs in species from blasphemy against the saints. Bus. affirms this probably, along with others; but Bon. t. 2. d. 3. q. 8. p. 4. n. 1., Sanch. dec. l. 2. c. 32. n. 38., Laym. l. 4. tract. 10. c. 6. n. 10., Viva d. quæst. 6. art. 2. n. 6. and Salm. dict. c. 3. n. 124. with Caj., Bann., Fill. etc., probably deny it. And Viva, in dict. quæst. 6. art. 2. n. 6., considers it probable, because generally, an injury against the saints is mediately referred to God. However, Salm. n. 125. with Bon. hold that, for another reason, it must be expressed in confession whether the blasphemy was against God or against the saints."

[*Latin ed. p. 172*]

It has been against God or against the saints; because they say that the aforementioned blasphemies, beyond their own wickedness, contain another distinct species against sacrilege or heresy. But Viva, in *dictis*, n. 6, *in sin.*; Tamb., in *meth. conf.*, book 2, chapter 3, § 1; Holzm., vol. 1, p. 284, n. 405, and Elb., *de Il. præc.*, n. 9, with Azor, etc., also probably deny this, saying that sin is only committed against heresy when the blasphemy is uttered against the saints because of their own excellence, without reference to God, so that it is directed only at them and stops there; but, since those

who blaspheme the saints more truly (speaking generally) intend to injure them not because of their specific and proper excellence, but inasmuch as they are referred to God mediately; therefore, according to the first probable opinion of the theologians of Salamanca, they sin not against heresy, but only against sacrilege, and therefore they are not obligated to explain whether they blasphemed God or the saints.

RESPONSIVE LETTER

Against the apologetic letter written in defense of the dissertation that appeared on the abuse of cursing the dead.

Above all, I considered it necessary to indicate that, since a certain dissertation had appeared against some things I had written on this point, to which I had briefly responded, I had promised, both once and again, that once I had satisfied those things that were opposed to me, I would not speak further on this matter.

[*Latin ed. p. 173*]

lest progress be extended indefinitely, and lest I repeat what I have already written: but I said that I only wished to respond, as I have done, to the two Thomistic doctrines which he was again presenting to me. And at the same time, I indicated that I had resolved in my own mind to write nothing further on this controversy (because it seemed to me that the matter was sufficiently settled), unless I had been completely persuaded by my opponent of the truth; for then I would have no difficulty in abandoning my opinion, and I would not hesitate to signify this to all through public writing, as my mind has not recoiled from doing in some of my other opinions, which, when I have recognized that they were not in accordance with reason, I have gladly retracted. Nevertheless, after the response that I had given, a second apologetic letter was circulated in defense of the aforementioned dissertation, in which the author contended that to curse the dead is to inflict a mortal wound upon them: to which letter, despite the resolution that I had made not to respond further, I am now compelled to reply. And I add this only here, in which are briefly contained both the response that I had given to the dissertation, and the response to the defense of the dissertation. To the Most Reverend Abbot, Dom Bartholomew of Marco Basiliano. Most Reverend Father and Lord, most esteemed. Since a certain dissertation on the cursing of the dead, and a brief response of mine against it, had appeared, a second apologetic letter has recently been published, written by several people in defense of the aforementioned dissertation. When that letter came into my hands and I read it carefully, I reflected.

[*Latin ed. p. 174*]

I would write, or I would not write. For, on the one hand, I would have

wished to maintain the resolution of not responding any further, so that I might not proceed to infinity. On the other hand, it seemed advisable now to respond again, as my friends urge me to do; then, because in the previous response, a certain error, from which I intend to retract, occurred by chance, although it has no reference to our matter, as you will observe from this second response; and then, because in the aforementioned apologetic letter, the adversary presents other new objections, in order to which, that some ambiguities might be removed, I deemed it necessary to provide a second response. Therefore, I have taken care to bring this second response to you, and I ask of you two things: first, that you read it with all the attention you can, omitting, adding, or correcting whatever you may have deemed necessary; second, that you frankly reveal to me your opinion as to whether it seems advisable to you that I take steps to have this printed. For, on the one hand, it displeases me to contend with that man and his associates in the Order, which I hold in the highest regard and greatly venerate (although I have learned that there are some among that Order, perhaps not the least learned, who adhere to my sentiments); on the other hand, I fear to draw this opinion from the hearts of the faithful, namely, that the aforementioned.

[*Latin ed. p. 175*]

I believe that it is not without benefit to the glory of God, who seeks the salvation of souls for His glory, if a certain censure is declared to be mortal, when it is not so. Pray, excuse me, if some things which were already noted in the previous response are repeated here. I considered that this should be done in no other way, except so that all things may be presented together before the reader's eyes as he reads the observations which my opponent now brings forward anew. In his dissertation, he attempted to prove that cursing the dead is a mortal sin and a true blasphemy, for two reasons: 1. because the bodies of deceased faithful are sacred; 2. because the aforementioned curse cannot but be referred to the souls. In my response to the dissertation, I stated that I had already answered those objections twice; therefore, in order not to always sing the same thing, I did not wish to respond to everything that was presented. Nevertheless, I said that I could not but respond to two authorities of St. Thomas which were brought forward anew. The first text is taken from 3. p. q. 8. art. 2., where the Doctor says that Christ exerts the right of resurrection in the bodies of the faithful, because of the dwelling of the Holy Spirit. And the author of the dissertation intends to prove the same thing from elsewhere, namely, from the sacramental reason of communion, by which the faithful are strengthened while they live; and thus, from these two reasons.

[*Latin ed. p. 176*]

The bodies of the deceased are to be considered among sacred things,

so that they may be venerated with sacred worship, derived from the virtue of religion. But if these reasons, I reply, prove that the bodies of any deceased are to be considered sacred, they would also prove that, necessarily, the bodies of condemned faithful must also be considered among sacred things; for the Spiritus Sancti sometimes dwelt in them, and they were made one with Jesus Christ through the Eucharist. Will someone say that these qualities are afterwards lost through sin? Therefore, I conclude, whenever it is not clear to me, by the authentic testimony of the Church, that the soul of that person is enjoying eternal glory, and whenever the Church does not elevate the honor due to him, for the sake of sacred worship, as we will explain below, it is not lawful for me to consider that body as sacred. Furthermore, if the bodies of the deceased are sacred because of the Eucharist they received and because of the dwelling of the Spiritus Sancti, it must necessarily be said that the bodies of living faithful are also to be considered sacred, so that any injury or curse inflicted upon the body of a living faithful would be considered a grave sin against religion. But this is contrary to the explicit teaching of St. Thomas, as we will soon see. To say that the bodies of the deceased are sacred because of the rites with which the Church treats them, because indeed they are sacred...

[*Latin ed. p. 177*]

It bestows the benefit of burial, adorns it with processions and blessings, burns incense, and even, according to the ancient rite (as the adversary says), it was formerly customary to place the sacred Eucharist upon the breast of the deceased; I do not know why these rites should be called acts of sacred worship, when it is known that in former centuries, even in times when the Church enjoyed peace from the persecutions of the infidels, the bodies of the faithful deceased were buried in the *campis* and on the roads, as Thomas and Calmet testify. Indeed, more councils forbade the burial of corpses within the church. But if, in later times, the custom arose to bury them in a sacred place, as Saint Gregory affirms, this arose because those nearby would more frequently remember the souls of the deceased and assist them with their prayers: ''It is beneficial to the dead (these are the words of the Saint) if they are buried in the church, because those nearby, being reminded by the sight of the tombs, will more frequently pray for them.'' *Lib. 4. dial. c. 50, 52, et 53.* And Saint Augustine says the same in his book *de cura pro mortuis*. The blessings, with the lustral water, are said by Gavant and Durand over the corpses, so that they may be freed from the infestation of demons. And for the same reason, they are incensed, as Innocent III writes in *lib. 2. de myst. missæ, cap. 17*, and for the same

reason, *ss.*

[*Latin ed. p. 178*]

The Eucharist was placed upon the breast of the deceased, as Saint Gregory asserts in book 2, dialogue 24. Although this practice was subsequently condemned by the councils in the fourth, sixth, and seventh centuries, as reported by Father Vestrini in his theological writings, volume 3, epistle 53; just as it was forbidden to place the sacred Eucharist upon the foundation stones of churches, or to apply it to the afflicted or to the wounds of the sick, and likewise to anoint the forehead, eyes, etc., with consecrated blood, a custom which was received among the ancient faithful, as reported by Saint Cyril and Saint John Chrysostom. These things make it clear that these pious acts (which derive more from simplicity than from religion) do not indicate that the things to which they were applied were sacred, but rather that they were used solely to achieve the good effects which the faithful hoped to obtain from their use. But speaking of the rites which the Church commonly uses today in the burial of the dead, this is what Spondanus writes (book 1, page 2, chapter 15, section 3, concerning sacred cemeteries): How great is the power of the cross with which they are marked and adorned, and of the blessed water with which they are sprinkled, and of the incense with which they are suffumigated, both to ward off many evils, and especially to drive away demons, and to dissolve their enchantments, I would be eager to demonstrate with the testimonies of many of the Fathers.

[*Latin ed. p. 179*]

To demonstrate this most clearly through examples. And in chapter 2, section 1, incense is offered to the bodies of deceased faithful, because those who die piously are Christ's sweet fragrance, and to further signify that the deceased have left behind the fragrance of good works, etc. Through incense, it is judged that they believed that through death they were going to immortality. Furthermore, St. Stephen Durand (book 1, chapter 9, paragraph 9): "Moreover, incense is offered for the reverence of the place and of the divine office, etc." Also, John Beleto (in the explanation of the divine office, chapter 161): "The body is placed in the tomb, and blessed water and a prune are placed with the incense: the blessed water, so that demons may not approach the body; the incense, to remove the stench of the body; the prune, to indicate that that land cannot be returned to common use." Furthermore, William Durand (in the rational, book 7, chapter 35): "Blessed water is placed, so that demons may not approach the body; the incense, to remove the stench, or to indicate that the deceased has offered to his Creator an acceptable fragrance of good works, or to show that the deceased benefits from the help of prayer." From this, it is clear that all of these rites which the Church uses towards the deceased are not sacred

worship intended to honor the bodies, but rather mystical ceremonies. Note also that the Church denies these rites to those who, being bound by the bonds of excommunication or interdict, have departed from this life.

[*Latin ed. p. 180*]

Although, before breathing their last, they had given certain signs of penance and of their salvation. Therefore, the Church applies these rites to the deceased not because she supposes them to be temples of the Holy Spirit, but because she desires to maintain communion between the living and the dead. The other passage from St. Thomas which is brought against me is taken from the same 3rd question, 25th article, 6th section, where the Angelic Doctor says that the relics of the saints are to be venerated because they were the temple and the organs of the Holy Spirit, who dwelt and worked in them, and also because they are sometimes to be configured to the body of Jesus Christ through a glorious resurrection. From this, the adversary infers that a curse upon the bodies of the dead is a true blasphemy, because those bodies had already been temples and organs of the Holy Spirit. But if this reasoning were valid for the deceased, I say again, it should be even more valid for the living, indeed, much more so; for the living are, in actuality, (if they live in charity, as we must devoutly presume), living temples and organs of the Holy Spirit. But St. Thomas, 2nd 2nd question, 76th article, 3rd section, along with the theologians who follow him, Cajetan, Soto, Azorín, Prado, Serra, Molina, Lugo, Laym, Trull, and all, say that a curse or imprecation pronounced upon men is venial, unless the curse is formal, but only material.

[*Latin ed. p. 181*]

Without a wicked intention. Let us present the entire text of St. Augustine, so that it may not be imputed to me that I have presented a truncated version. A curse is that by which evil is pronounced against someone (note) either by commanding or by wishing. But to will, or to command, the evil of another, according to oneself, is contrary to charity, by which we love our neighbor, desiring his good. And thus, according to its kind, it is a mortal sin, and all the more grievous, the more we are bound to love and respect the person against whom we curse. Hence it is said (Leviticus 20:9): "He who curses his father or his mother shall surely be put to death." However, the word of a curse pronounced may be venial, either because of the smallness of the evil that one wishes upon another, or even because of the intention of the one who utters it, when words are uttered from a slight movement, or from jest, or from a slip of the tongue; because sins of words are judged most of all by the intention. Hence, my adversary, attacking me and repeating the words of St. Augustine with emphasis – according to its kind, it is a mortal sin – speaks to me thus: "Pay attention, or do not pay attention?" However, I believe that I have understood this, and

indeed in such a way that no one ought to understand the text of St. Thomas otherwise than I do, namely, that to curse men is then a mortal sin when the curse is formal, which is said to be such when one, with a wicked intention, wishes evil.

[*Latin ed. p. 182*]

that to him may happen the evil which he curses, or when he incites others to inflict evil upon him, as the Angelic Doctor explains in article 1, by the example of a judge who moves his ministers of justice to execute an unjust punishment upon the accused. And the Saint says that this is a mortal sin, because, according to himself (as he himself says), it is contrary to charity, by which we love our neighbor, desiring his good. For just as charity compels us to desire the good of our neighbor, so it forbids us to wish evil to him, and to incite others to inflict evil upon him. Speaking of verbal curses (of which we speak only in the present case), Saint Thomas says that they do not exceed venial sin when the evil that one curses is slight, or when there is a lack of a wicked intention, which is called a material curse (namely, uttering a curse either in jest or without full deliberation). And he confirms this finally for this reason: because sins of the tongue are considered most of all according to the intention. The same is taught by Cajetan in the aforementioned commentary, question 76, article 1, saying: "Note from the first article what properly constitutes a curse, namely, to say evil, as evil, to someone with intention. And from this it follows that a curse is distinguished into a formal curse and a material curse, and that sometimes it is a mortal sin, and sometimes a venial sin: for a formal curse is from its..."

[*Latin ed. p. 183*]

In the case of a mortal sin, it is clear that it pertains to human nature; however, if it occurs in an optative manner, it is not mortal; but if it were to occur in an imperative manner, it could be mortal. The reason for this difference is that, apart from the intention, the one who curses does not harm anyone; because neither the intention, nor the action of the minister who follows, is sufficient, although it is not from his own intention. I have said that it pertains to its own genus, because, due to the imperfection of the act, either on the part of the object, as if one desires or commands a small evil, or on the part of the one acting, as if one curses out of anger (or out of amusement, as St. Thomas adds), although the affectation tends towards evil, because it does not tend towards evil with the consent of reason, it falls short of the perfect reason for sin, and therefore it is not mortal. Following, therefore, the teaching of St. Thomas, Cajetan states, on the one hand, that a formal curse, namely, one from intention, is of its own genus and is mortal; and thus it is either venial, either because of the imperfection of the act, namely, the consent of reason, or because of the

smallness of the evil that is desired: on the other hand, he says that it is only a material curse that is venial, namely, one that occurs apart from intention, pronounced in an optative manner, that is, in the optative mood, or by words expressing desire, taking the optative adverb as a distinction from the imperative, namely, in the imperative mood. And the same, although in a different way, is taught by St. Thomas in the aforementioned passage: there, he distinguishes between a formal curse and...

[*Latin ed. p. 184*]

materially; for first, he speaks of the formal aspect, namely, when there is the intention of willing evil that is pronounced, as he says: "But to will, or to command another to do evil, is contrary to charity, by which we love our neighbor, desiring his good." And thus, it is a mortal sin in its own kind. Therefore, that which the Saint understands to be contrary to charity and to be mortally sinful in its own kind, is not simply to pronounce a curse, but rather to will, or to command another to do evil. Therefore, Saint Thomas recognizes the gravity of the culpability only in willing the evil that is pronounced, or in moving others to inflict evil. Then, he proceeds to explain the material curse, saying that it is venial if it is uttered from a slight impulse or from jest, giving the reason: "Because sins of words are considered most of all from the affection, as stated above." Quest. 72, art. 21. And in the cited article 2, he had previously said: "Words, insofar as they are certain sounds, are not harmful to others, but insofar as they signify something; and that signification proceeds from within: and therefore, in sins of words, it is most important to consider from what affection someone utters the words." Therefore, it is one thing to curse conditionally, as Cajetan says, and another thing to curse with a wish, as Saint Thomas says: for "conditionally" denotes cursing through words.

[*Latin ed. p. 185*]

The optative [form of cursing] is contrary to intention; but by wishing, the Saint understands cursing to be done with true intention, as he clearly explains afterward, saying: "To will according to oneself is contrary to charity, etc." And indeed, a curse is a formal act, and therefore gravely culpable; and it is only venial, as the Angelic Doctor adds, either because of the smallness of the evil that is desired, or because of deceit, or because of a slight impulse with which the curse is uttered. Furthermore, this question between myself and my opponent is merely about words; for, granted that St. Thomas generally says that any curse of its kind is mortal, nevertheless, the Saint firmly holds that cursing a person without a wicked intention is only venial. And I seek to demonstrate nothing other than this. Therefore, both St. Thomas, as well as Cajetan, and all other doctors with St. Augustine, apud eumdem Angelicum 2. 2. quaest. 76. art. 4. object. 1., do not consider it blasphemy to curse a person, because a person is the temple

of the Holy Spirit: for if they held this, they could not say that a curse without a wicked intention is venial; for to curse the saints or sacred things, even if a wicked intention is absent, is always mortal. From this, it is clearly inferred that, according to the Angelic Doctor and the common opinion of the Doctors, a faithful person can rightly be judged to be...

[*Latin ed. p. 186*]

It should be a temple of the Holy Spirit. Furthermore, it is deduced, contrary to what my opponent also suggests, that just as it is not a grave sin against charity and piety to curse the body of a living faithful person, if there is no wicked intention, so too it is not a grave sin against charity and piety to curse the body of a deceased faithful person without a wicked intention; since, according to the very *Summa Theologica*, the charity with which the dead who died in grace are to be treated is nothing other than an extension of the charity that we ought to show to the living: "Charity," says Saint Thomas, "which is the bond that unites the members of the Church, extends not only to the living, but also to the dead who die in charity." But my opponent says that the greatest difference between cursing the living and the dead is that in the living, the spark of sin remains, and therefore he is in danger of sin, from which he who has died in grace is immune; therefore, he says, cursing the living can be venial: because, if it is a sin against charity, and the wicked intention is removed, it can be a non-grave sin; but cursing the dead, because it is a sin against religion, even if the wicked intention is removed, is always a grave sin, because of the injury that is done to religion when the sacred body is cursed. But to respond, let us again examine the principle from which he argues concerning the deceased faithful.

[*Latin ed. p. 187*]

The sacredness of bodies is affirmed. He says, according to the teaching of St. Thomas, that to curse the dead is a grave matter, because their bodies were the organs of the *Spiritus Sancti* and because they received the sacraments. Therefore, I answer: concerning that which is said that the body of the deceased should be considered sacred because of the Communion and because it was a temple of the *Spiritus Sancti*, I have already said above that this reason proves that both the bodies of the deceased and the living should be considered sacred, because even the living is a temple of the *Spiritus Sancti*. Your members are the temple of the *Spiritus Sancti*. 2 Corinthians 6:19. But in the living, there is present that inclination which returns man under the power of sin. I answer: therefore, was the body of Adam before the sin sacred? Furthermore, the inclination to sin does not cause the essence of the holiness of the body to change. Also, neither the inclination nor the danger of sin cause the living person here and now not to be a temple of the *Spiritus Sancti*. Especially since this inclination

does not introduce any guilt or stain into the soul; for the grace of the Redeemer in the baptized removes all stains of sin and abundantly repairs all its damages. With Him is redemption in abundance. Psalm 129:7. Where sin abounded, grace did superabound. Romans 5:20. I came that they might have life, and that they might have it more abundantly. John 10:10. Therefore, the Council of Trent (session 5, in...)

[*Latin ed. p. 188*]

(Decree concerning original sin, canon 5.) By baptism, souls are made immaculate, and concupiscence does no harm, nay, it is even helpful in receiving a greater reward, even if one does not consent to it: For in the regenerate, God hates nothing...: they are made innocent, immaculate, pure, and beloved by God, etc. However, this Holy Synod acknowledges and believes that concupiscence, or the "itch," remains in the baptized; and when the struggle is left, it cannot harm those who do not consent; nay, he who has legitimately fought will be crowned. Thus, the reason that they are members of the Body of Christ, whether living or dead, does not mean that the body is to be considered sacred; otherwise, it would always be a grave sin to curse even the living, even without a wicked intention, and the opposite is certainly true, as even the adversary admits. Therefore, it is necessary to resort to another reason (if, perhaps, the adversary finds one) to prove that the bodies of the dead are sacred. Nor does it suffice to say that, when cursing a living person, one can disregard him, not considering him as a temple of the Holy Spirit, but by directing the mind to other particular motives, e.g., to the injuries by which one has been affected by him. And I add: and why cannot this distinction be made even with respect to the dead, when cursing them, taking into account some annoyance caused by them, but without a wicked intention? Furthermore (as we wrote in the first letter), these curses are usually rather...

[*Latin ed. p. 189*]

Concerning the insults offered to the living, which are not offered to the dead. But (he says), this cannot possibly be, because the bodies of the dead are sacred. But here the question returns, because this is what is disputed: for we say that no body of the dead is to be considered sacred, unless the Church declares it to be so, and commands it to be venerated as sacred, raising veneration from the human order to the supernatural and divine, as we shall soon see with the authority of St. Thomas. But the Author will reply that, according to the same St. Thomas, art. cited, ad 2, the relics of the saints are worthy of veneration because the souls of such bodies enjoy God actively, and that therefore, he says, although the bodies of the dead may not be venerated with due worship, they cannot nevertheless be scorned, since they are sacred; for it is to be piously believed that their souls are saved. Therefore, I reply, if the bodies of the dead are sacred, should a

sacred worship be offered to them? But I would like to know what kind of sacred worship should be offered to them? The adversary admits that due worship is not due; but I find no other that is assigned by the Church or by the Doctors, nor can I conceive that any other kind of sacred worship can be assigned, besides latria, hyperdulia, and dulia. But (he objects) to what worship are the altar, vestments, and vessels reduced?

[*Latin ed. p. 190*]

I inquire: Does veneration pertain to the worship of latria? I answer that it is reduced to the worship of latria; for these things, in themselves, do not merit any worship, unless they are venerated with a sacred worship that is not merely relative or derivative; hence, their worship is reduced to the worship of latria by reason of the sacrifice to which they are ordered. Therefore, I say that since the bodies of the deceased cannot be venerated with the worship of latria or any other sacred worship, they should not be numbered among the sacred things. P. Suar. (in his work *Defensor Fidei Catholicae adversus Anglicanos*, book 2, chapter 5, paragraph 14, near the end) speaking of the veneration due to the relics of the saints and other deceased, says: "Indeed, I add that this very custom (namely, of venerating the relics of the saints as sacred things) demonstrates that the Church feels about the relics of the saints in a far higher way than common people usually regard the bodies of the dead." It occurs to me that even St. Gregory of Nyssa, speaking of the bodies of the saints and of other faithful who have died a common death, says that there is no equality between the honor that should be given to them and that given to others; for he adds that the bodies of other deceased are abhorred by all and avoided by them; but to the bodies of the saints, because they are sacred, everyone desires to approach them and believes that they are sanctified by their touch. Let us quote his words concerning the body of St. Theodore (in his orations).

[*Latin ed. p. 191*]

(St. Thomas): The body of St. Theodore is not to be compared with other bodies which have been dissolved by common and ordinary death. For the remains of others are generally considered abominable, and no one willingly passes by a tomb, or, if it offends unexpectedly, hurries past it. But if one should come to a place similar to this where our assembly is held today, where the memory of the just and the holy remains are present, at first, indeed, he is delighted by the magnificence of the things he sees; then, he approaches the very building, believing that sanctification and blessing are to be found there. From this, it is to be noted that there is a different veneration which the Church and the faithful show to the bodies of the saints, and a different one with which the bodies of other deceased persons are honored. Regarding the veneration due to the bodies of those whose souls enjoy God, we respond that the reasoning of St. Thomas cannot be valid

except for the saints declared by the Church alone, of whom the Angelic Doctor speaks; for St. Thomas, from the reason that the souls of the saints enjoy God, proceeds to demonstrate that their bodies are to be venerated. Therefore, in order to understand what the Doctor teaches and what the truth of the matter is, two kinds of knowledge must be distinguished by which we know and believe that the soul of someone enjoys God: one is human, the other is supernatural and divine, derived from the Church.

[*Latin ed. p. 192*]

declaration. Now it is certain that that veneration of the bodies of the saints, of which Saint Thomas speaks, cannot be applied except to those bodies whose souls we know to be blessed through knowledge revealed to us by the Church, which elevates the honor due to them from a human order to a superhuman one. Hence, it is not sufficient for us to consider someone deceased as holy, even with moral certainty, in order that his body may be venerated with sacred worship; but it is required that the Church authentically make us certain, through the certainty itself communicated to us by divine light, that the soul of that deceased person already reigns with God in heaven. Let us hear the words of St. Thomas, *Quodlibet*, g, art. 16. There, in response to the objection that the saints cannot be venerated, because moral certainty of their blessedness cannot be had, the Saint (to the first) responds: "It must be said that the Pope, who is responsible for canonizing the saints, can be certain of the state of someone through an inquiry into his life and through the testimony of miracles, and especially (note) through the inspiration of the *Spiritus Sancti*, who scrutinizes all things profoundly. Therefore, for whatever moral certainty, but human and natural, we must not and cannot consider the bodies of the faithful deceased as holy, nor offer them sacred worship, except after their canonization; for then the Church...

[*Latin ed. p. 193*]

From that supernatural knowledge which he possesses through the inspiration of the Holy Spirit, as the Angelic Doctor says, he transfers veneration for that body from the human order to the superhuman and divine order. This is evident in the decrees of Urban VIII concerning the cult of the servants of God, not yet canonized or beatified (see Benedict XIV, *De canonizatione Sanctorum*, book 2, chapter 11); in which it was especially stipulated that, when writing about the virtues or deeds of such servants of God, the following declaration should be prefaced: "I profess that I understand, or wish to be understood, in everything that I set forth in this book, in no other sense than that in which such things are usually understood, namely, by human authority alone, and not by the divine authority of the Roman Catholic Church or the Holy Apostolic See." Note these words: "by human authority alone, and not by the divine authority of the Church, etc."

Therefore, the deeds of the servants of God have no other credibility or veneration than that which is human. But when the Church declares them saints, then veneration is elevated from the human to the divine, because of the Church's divine authority. Hence, in order that some sacred and superhuman cult may be offered to a deceased person, it is necessary that some principle and knowledge beyond the human realm be had concerning the sanctity of the object, through divine revelation communicated to us by the Church. And therefore, when the saints...

[*Latin ed. p. 194*]

Already, the Church has declared that the remains are sacred, not only their bones, but also their garments, letters, and all other things which they used; and it would be a grave irreverence and sacrilege to use these things for profane purposes. Indeed, it is not yet forbidden to do anything concerning the remains of the deceased who have not yet been canonized, even though we may have some knowledge of their heavenly blessedness. Although we concede that we can venerate the remains of a deceased person whom we consider to be of sanctity, invoke him, have his image painted, and do other similar things, because these actions do not pertain to the sacred worship, but are merely acts of religion (and not civil acts), which, as Father John of St. Thomas says, and as Bellarmine also teaches (*Controversiae*, book 4, chapter 1, paragraph 10, numbers 4 and 7, and *De canonizatione Sanctorum*, book 2, chapter 7, numbers 4 and 7), can be applied equally to the dead as to the living. Indeed, Bellarmine infers from this that those actions which can be lawfully performed towards the living can also be applied to the dead: "If it is lawful," he concludes, "to honor the living whom we believe to be saints, why not the dead?" And because some had criticized Bellarmine's teaching, namely that he allowed the veneration of non-canonized saints, he defended it, saying that he himself...

[*Latin ed. p. 195*]

He did not permit the worship of those not canonized, except for that which was customarily offered to the living. In St. Benedict, book cited, chapter 6, paragraph 1. I have said: "An act of religion is one thing, and sacred worship is another: to kiss the hand of the servant of God, to commend oneself to his prayers; to wash his feet, and other such things, these are indeed acts of religion, because they spring from religion; but they are not sacred worship, because they are not performed towards sacred things." And likewise, to bury the dead in a sacred place, to offer incense, to kiss the feet, to venerate their relics, these are indeed sacred ceremonies and acts of religion, but they are not sacred worship. Indeed, sacred ceremonies are called and are truly so, because they refer to themselves, which are sacred according to what has been prescribed by the Church; but sacred worship cannot be called, because sacred worship refers to the object towards which

it is directed; therefore, it can never be said that sacred worship has a non-sacred object. Furthermore, these are certainly acts of religion, and here I confess that in my first response (I do not know how) an error occurred; for when I should have said that the incense offerings and blessings and other ceremonies which we customarily perform towards the deceased are not sacred worship, I said that they are not acts of religion. I affirm, and I do not doubt, that they are acts of religion; but they are not, therefore, sacred worship, and consequently...

[*Latin ed. p. 196*]

It is not the case that, because of the aforementioned actions performed towards the deceased, their bodies should be treated as sacred and therefore can be venerated with sacred worship. Therefore, Alexander III, in chapter I concerning relics and the veneration of the Saints, absolutely forbade venerating anyone as a saint unless the authority of the Church is added: Even if miracles were to occur through him, it is not permitted to venerate him himself as a saint without the authority of the Roman Church. And although, formerly, some were venerated as saints without the declaration of the Church, but solely by the custom of the people; nevertheless, Bellarmine responds in the aforementioned work (chapter 8, at the end), that this was permitted by the tacit approval of the Pope: Just as customs have the force of law by the tacit consent of the prince, so the cult of a certain saint, introduced by custom, has the force of the tacit or explicit approval of the pontiff. Therefore, I maintain: I do not doubt that the rites which the Church performs towards the deceased are sacred ceremonies and acts of religion, but not sacred worship; indeed, the Roman Ritual, when speaking of funerals, calls the rites performed in the burial of the dead not sacred worship, but only the mysteries of religion and signs of Christian piety, saying thus: "The sacred ceremonies and rites with which the Mother Church is accustomed to honor the funerals of her children, as true mysteries of religion."

[*Latin ed. p. 197*]

Signs of Christian piety and the most heartfelt prayers for the deceased must be diligently preserved by the parish priest. I add two further observations from which this becomes clearer. Firstly: if such devotion were sacred, it would also be public worship, provided that it is offered by a public minister of the Church; and this is certain, since the Church itself prohibits any public worship being offered to anyone who has not been declared a saint or blessed. Furthermore, Saint Francis de Sales states that sacred worship is not offered to the deceased unless it is in testimony of their excellent virtues, and knowledge of this excellence must be certain. But how can it be said that the rites performed for the deceased are sacred worship, when, speaking generally, there is no knowledge of the excellent

virtues of the deceased? Indeed, it is well known that among the faithful who have died, many are cremated in eternal fire; and meanwhile, these rites are performed indiscriminately for all. Therefore, it must be said that the Church does not consider such rites to be sacred worship. I anticipate a certain objection that might be raised: if it is conceded that venerating the dead is an act of religion, then certainly cursing them would be an act opposed to religion. The answer is given first by analogy: if this argument were valid for the deceased, *Lic. Theol. Mor. T. III.*

[*Latin ed. p. 198*]

It would also be efficacious for the living. For, as we have shown, to venerate the living servants of God through the aforementioned actions is likewise an act of religion, or religious worship; therefore, to curse such a servant of God, even with a wicked intention, would equally be a grave sacrilege: but no one says this. However, a direct response is offered. It must be distinguished and considered from what motive such an act of religion proceeds. If it proceeds from the motive of the object itself, because the object is sacred, then an insult to it is a sin contrary to religion and is sacrilege: but if the act of honor proceeds from the religious piety of the faithful, then it will certainly be a religious act, because it proceeds from the motive of religion; but a curse upon the object will not be an act contrary to religion, because it is not an act that refers to the sacred object. The adversary, in his dissertation, marvels at, and calls imprudent, nay, reckless, those who, with a sincere countenance, say that it is not, in itself, a grave sin to curse the dead. But we, and those with us, marvel at those who do not scruple to absolutely declare that this curse is a mortal sin and blasphemy. For it suffices to say that some action is not a grave sin if there is a true probability that it is not so, as all acknowledge: I understand that which...

[*Latin ed. p. 199*]

It is founded on a firm basis, so that, safely (according to common opinion), the question of what is more probable and what is less probable being set aside, it can be held and taught. And those two doctrines which my opponent presents to me are of little or no importance to our matter: one from St. Augustine: that one would sin gravely in matters pertaining to the salvation of the soul, or simply by preferring the uncertain to the certain: *lib. 1. de bapt. c. 3*; and *c. 5*: "If it is uncertain whether a sin is committed, who doubts that it is a certain sin?" For there, the Saint speaks of one who acts in doubt concerning matters pertaining to the necessity of eternal salvation; in which case, everyone is bound to follow what is certain. Furthermore, there the Saint speaks of a certain Donatist, who, although certain that baptism was conferred rightly and properly in the Catholic Church, was doubtful whether it was rightly received in his own

sect. I will present the complete text: "If he had any doubt whether what is received there is rightly received, when he is certain that what is received in the Catholic Church is rightly received, he would sin gravely in matters pertaining to the salvation of the soul, or simply by preferring the uncertain to the certain. And then: Therefore, to receive in the sect of Donatus, if it is uncertain whether it is a sin, who doubts that it is a certain sin, rather than to receive where it is certain that it is not a sin? Who doubts that this Donatist certainly sinned?" But St. Augustine did not say that he who...

[*Latin ed. p. 200*]

It operates from a true and solid probability, when the doubt concerns matters pertaining to the necessity of salvation, as is the case with baptism, when the action is certainly illicit; for the law does not impose a certain obligation when there is doubt, according to what the Angelic Doctor teaches in *Quaestiones Disputatae*, question 14 on truth, article 3: "No one is bound by any precept unless through the knowledge of that precept." And this is also proven from chapter 31 of *De Officiis et Potestatibus Judicis Delegati*: "Unless you are certain of the mandate, you are not compelled to do what is commanded." The same is found in canon Sicut quædam, dist. 14, where St. Leo writes: "In those things which are either doubtful or obscure, we must know that what is to be followed is that which is not contrary to the evangelical precepts, nor is found to be contrary to the decrees of the Holy Fathers." This passage is relevant insofar as it can be asserted that some action is not gravely illicit. But to absolutely affirm that some action is a mortal sin, a probable opinion, or even a more probable one, is not sufficient; for a more probable opinion does not exclude a reasonable fear of error; hence, it does not effect that the law remains doubtful, and that the opposing opinion cannot be true, if it is truly probable. Therefore, when it comes to sacraments, it is not permissible to follow the more probable opinion when the opposite is also probable, even if it is less probable. For this reason, in order for some action to be gravely illicit, certainty is required, as...

[*Latin ed. p. 201*]

All agree with St. Raymond, who (in book 3, chapter 21, on penance) wrote: "Do not be too quick to judge mortal sins where it is not certain according to Scripture. Therefore, the Saint warns that no action should be judged to be a mortal sin unless it is certain that it is so; and when the Saint says 'where it is not certain,' he always intends to reprove those who, as an excess, assert that something is a grave sin when it is not certain that it is so." St. Antoninus likewise said (page 2, volume 1, chapter 11, section 28) that it cannot be determined without danger of sin whether any action is a grave sin, unless there is an explicit authority from Scripture or a decree of the Church, or an evident reason: "The question of whether

an action is a mortal sin or not, unless there is an explicit authority from Scripture or a canon of the Church, or an evident reason, is determined most dangerously." Because (as he adds), "he who determines without any of the aforementioned reasons, builds to hell, and casts souls into the danger of damnation." Hence, most wisely, Benedict XIV, in his work on diocesan synods, in many chapters, warns bishops not to ever condemn as grave sins those opinions which are defended by learned doctors of both sides. My opponent, however, up to this point...

[*Latin ed. p. 202*]

He proceeds to call his theological conclusion his own opinion. I do not wish to intrude by stating whether his opinion is supported by weight and with what degree of probability; but I do not know if a theological conclusion can be said to exist, when no passage of Scripture is adduced in its favor, nor is there any ecclesiastical definition, nor any evident reason, nor the common authority of Doctors, indeed, nor even one who, according to his opinion, has written on the matter. He adduces the text of St. Isidore of Pelusia: (lib. 5 of letters, epistle 491.) "The living assail even the dead, and enemies enter into a covenant!" Why, therefore, do you, transgressing both the laws of nature and the limits of enmity, curse the deceased? For you seem to sharpen your tongue against ashes and dust. But first, you violate the sanctity to which all mortals ought to aspire. Then, he has an immortal soul, of which the eye of God is the avenger. But in the book which I have with me, printed in Rome in the year 1626, I find that the aforementioned text is not given in that way, but in other words (p. 370): thus it is read there: "The living are often assailed by calumnies, while even enemies are reconciled and enter into a covenant with the deceased. Why, therefore, do you yourself transgress the limits of nature and enmity, while already the deceased is assailed by calumnies and insults? Do you think that you alone sharpen your tongue against ashes and dust?" But hush! First, you yourself violate the sacred...

[*Latin ed. p. 203*]

You violate the right of burial, which, however, does not encompass and does not seek to possess: then, he has an immortal soul, whose eye is ever watchful and always vigilant, a vindicator. Let others now judge whether this authority contributes anything of importance to the opinion of my opponent, who contends that all the bodies of the deceased faithful should be considered sacred and worthy of veneration. St. Isidore calls the right of burial a sacred right, but not the body of the deceased. But furthermore, my opponent concedes everything to himself: the Scriptures, the definitions of the Church, the common authority of Doctors, and evident reasons. The Scriptures say: "Nor the effeminate nor liers with mankind nor thieves nor covetous nor drunkards nor railers nor extortioners shall possess the

kingdom of God." (Calmet explains that "railers" are those who bring reproach to the face or slander those who are absent). The definition of the Church, he says, is the discipline by which it itself uses in burying the faithful. He also has the common authority of Doctors on his side, saying that moralists have not discussed this matter because, according to their rules, it is considered certain among them. Finally, he has evident reasons, which are, of course, those which he himself expounded in his dissertation. I do not wish to impose my judgment on this matter; but wise men exhaust every controversy. Furthermore, speaking of my opinion, as I stated in the preceding pages, besides the three authors cited there who have written on this subject,

[*Latin ed. p. 204*]

I have taken care that this matter be examined by many, and especially by all the congregations of missionaries in the city of Neapolis, in which, because all profess moral theology for missionaries (as is known to all), the most select clergy of Neapolis are gathered together. My adversary, citing a certain passage from Socrates, indicates that not all are endowed with such acumen as to be suitable masters for investigating such questions. I concede that not all are masters; but since the aforementioned congregations had given a response on behalf of the entire body, it must be supposed that the resolutions were given not by the less wise, but by the wiser. As I have already written, the aforementioned question was also discussed in Rome, by order of Benedict XIV; and according to the mind of that pontiff (which, in any case, I have never intended to be a definition from the chair), the question was resolved, that it lacked the guilt of mortal sin. But he writes that he is not bound to have faith in this examination, nor in the resolution given in Rome. And it never occurred to me to try to force him to believe it; but I wrote this, because strong reasons prevent me from retracting it; for he testified as a witness from his own knowledge and from what he saw (for he himself saw the pontiff).

[*Latin ed. p. 205*]

A certain priest, religious, learned, and entirely unconcerned in this controversy; therefore, I have considered that others who are indifferent to both sides of this opinion may also, prudently and not without reason, believe this. Furthermore, as far as I am concerned, it seemed all the more certain that I could write and explain the matter in the same way in that very moral work which I composed and dedicated to the same pontiff, and which I took care to present to him. This is the case, if my opponent, guided by a good intention, wrote this, I also firmly believe that he was not led to write it by any attachment of mind or desire for contention (Indeed, it would be best, after having freed myself from the chains of the world in order to safely place my soul in eternal salvation, to strive to undertake

that which would lead it to damnation: and why? In order to acquire empty glory, or rather, to acquire perpetual disgrace in defending a false opinion). But with a right and good intention, in order to free so many who have contracted the habit of cursing the dead, and who, despite the fact that they believe (erroneously, in my judgment) that it is a grave sin, nevertheless continue to pronounce those curses. But what my opponent wished to call...

[*Latin ed. p. 206*]

Driven by obstinacy and a false zeal, I omit this, knowing that he who judges me is the Lord. 1 Corinthians 4:4. To this, I add a responsive letter written to me by the Most Reverend Abbot Dom Bartholomew of Mark, a Basilian (to whom I sent this letter with the intention that he should carefully consider it), a man whom I hold in the highest regard for his doctrine, and who is esteemed both within his own religious order, which has adorned him with excellent offices, and also in Naples and Rome, etc., as a master in sacred theology, whom he himself taught for many years with the approval of all, and who has practiced hearing confessions for 30 or 40 years. I pondered whether I should refer this here, or include the following letter: but I was given counsel to do so for two reasons: 1. so that it may be known to all that I, in order to act more cautiously and not be deceived by my own opinions, always seek the counsel of other doctors; as my adversary claims that I have always done: 2. so that I may show what estimation other outstanding men have of my opinion, and of the opposing opinion. The letter is as follows: Reverend Father, most esteemed sir, for a long time I have had the consolation of reading your erudite dissertation on the imprecations of the dead, maintaining that it is not a grave sin to curse them, as is my own sentiment and that of the wiser people with whom I have often discussed this matter. Now, through your kindness, you send me the response you wrote to one of your opponents, in which I admired your doctrine, and by adding reasons, you have made it almost demonstrative; and I do not know on what foundation he...

[*Latin ed. p. 207*]

He defends the position that it is a grave sin, but the reasons he presents seem to me to be of no consequence, as I read in a booklet sent by him to the printers, and which Your Excellency, Most Reverend, has thoroughly refuted, and which I now refute. Certainly, I do not understand how it can be a mortal sin to curse the dead. Furthermore, I find his moderation lacking in calling this statement probable, which says that blaspheming the dead is not a grave sin; rather, he should call it morally certain, and consequently, the opposite, which he defends against his opponent, is morally false and of weak and slight probability. Therefore, I have had nothing to remove, nor to add, nor to change in his learned writing; and I pray that the Lord may enlighten the mind of his opponent and of a few companions

who boast of finding fault in every small action. Your Excellency, Most Reverend, should not hesitate to publish the aforementioned apologetic response, which will be applauded, as will all of his other works. I commend myself to your prayers, and, offering you my reverence, I kiss your hands with all due respect. From Your Excellency, Most Reverend, Mater Domini, June 14, 1758. Your most humble, obliged, and devoted servant, Bartolomeo of Mark, Abbot.

I add these few words. The preface, as he writes, seems to assume that I consider my opinion merely as probable. This is not what I said: I stated that, for an action to be considered free from a grave sin, it is sufficient that it be probable that it is not grave.

[*Latin ed. p. 208*]

Furthermore, I will not offer a judgment as to whether my opinion is morally certain, since I submit this matter to the judgment of the wise; but, in general, I have considered it, and I still consider it, to be more than probable. Recently, another letter appeared from the opponent, to which we do not deem it necessary to respond; what we have already answered is sufficient. However, if the opponent believes that those who write last are victorious in controversies, we gladly concede such a victory to him.

CHAPTER II

FIRST DOUBT.

WHAT IS AN OATH?

133. What is an oath?

134. What are true oaths?

135. Is it permissible to say "by my conscience, or by my soul"?

136. Is it permissible to say: "I swear that it is so"?

137. Is it permissible to say: "As true as the sun shines"; or: "It is true as the Gospel"?

138. Is it permissible to swear by creatures?

133. *Response:* An oath is an invocation, either tacit or explicit, of the divine power, as the first and infallible source of truth, to witness to something. This invocation consists in the fact that the one taking the oath, as far as is in his power, desires and intends that God should attest and manifest [the truth of] what he swears, if and when it may please Him, either in this

life or in the next.

[*Latin ed. p. 209*]

"As though it were known and true from God Himself. Thus, the Common Doctors, *Summa Theologica* 2-2, question 89, article 1; *De Bonis*, 1, question 1, paragraph 1; Sanchez, 3, merit, chapter 1; Layman, book 4, treatise 3, chapter 1." "From which [follow] the resolutions: 134."

1. "Regarding the internal forum, he who inwardly intends, whether formally or virtually, and invokes God as witness, truly swears, whether he uses these or those words and signs, or even none at all; so that if someone uses words which in no way constitute an oath, but nevertheless believes them to be oaths, he truly swears; and conversely. Suarez, book 1, chapter 1; Sanchez, book 3, chapter 1; Layman, book 4, treatise 3, chapter 1." "Regarding the external forum, which formulas have the proper form of an oath, and therefore which words can licitly be used in conversation, will be evident from what follows."

2. "When there is doubt about the intention of the one swearing, it is usually judged according to the common understanding of the words used."

3. "The following formulas truly have the essence of an oath: 'I swear to God,' or 'I invoke God as witness.' Also: 'on my oath'; 'to my oath'; unless something else is known about the intention of the one using them, because many are understood in this way, for example, 'ich schwöre einen Eid' or 'to my oath': 'I will do this'; although the intention of these is not to swear seriously, but only to affirm something angrily and with greater emphasis. Layman, book 2, book 1, chapter 2."

[*Latin ed. p. 210*]

4.º The faith of priests is commonly demanded in their place of consecration, just as that formula of princes – "by our princely honor, or word" – although not a formal oath, is nevertheless accepted in legal proceedings as a substitute for a sworn promise; and similarly, if it is said by illustrious or noble persons: "by my honor, word, and faith." *V. Laym. l. cit. cap. 2.*

5.º Formulas such as – "God knows," "God will testify in His own time," "I speak before God," "God knows all things," "God sees my conscience" – are considered to be merely narrative statements, not invocative (and therefore are not oaths), unless something else is established or proven by the circumstances. *Laym. l. c. n. 4; Bon. quæst. 1. pag. 2. ex Suar., Less., Sanch. etc.*

Similarly, to say – "God lives," "God is truth" – is not an oath, if it is uttered as a statement, as Caj., Led. etc. state in Salm. tract. 17. c. 3. n. 25. However, Salm., with Az., Fag., Sot., Trull., say that such words are commonly understood to be invocations and, therefore, as true oaths.

6.º Those things which are said in the manner of a vow are not oaths: for example, "May my head be struck off, if I do not say this." *V. Sanch. l. c. n.

42. (V. n. 145.)*

7.º He does not truly swear who, in order to avoid being compelled to swear, says that he swears by everything.

[*Latin ed. p. 211*]

"By which it is possible: because, since no matter exists by which, without necessity, it is licit to swear, it is considered that by not swearing, one intends to swear nothing." 8. "The following are not oaths (as confessors and catechists should warn, lest sin be committed through erroneous conscience): truly, certainly, in truth, by the faith of a good man, by my faith, by the faith of a good Christian, or of a priest, or of a king." (Thus Salm. tr. 17, c. 6, n. 23, with Soto, Suar., Sanch., Less., Villal.)" 135. "Nor—by my conscience—above my conscience, etc.—, as Less. c. 42, d. 1, Bon. l.c. state; because these phrases only signify that the speaker is speaking according to the dictates of his conscience and knowledge of the truth, and God is not adduced as a witness. However, it would be an oath to say—by the Catholic faith, by the holy Gospel—; because then, it is considered that the author of that faith and Gospel is adduced as a witness. See Laym. l.c." Therefore, to say—by my conscience, above my conscience, in conscience—is not an oath, as taught by Less. lib. 2, cap. 42, n. 4, Elb. de Il. præs. n. 47, and Salm. dict. c, n. 28, with Led. and Villal., because no one is adduced as a witness, and the meaning is: What I say is what my conscience dictates to me. The same seems to be the case with the author, as above (Istruz. ec. p. 152), if you say—by the conscience of my soul—;

[*Latin ed. p. 212*]

For conscience is principally called and understood to be *that*, not the soul. Conversely, if one says—by my soul—it is more probable that this is a true oath, as stated in Psalm [116:1], with Suarez, Fagius, Sanchez, Elbing, *De Nup.*, n. 47, Renzi *de jur.*, q. 17, p. 125, and Busenius, n. 150, because God, who singularly shines forth in the soul, is then considered to be invoked as a witness. See above, n. 129; see also below, n. 136. Also, to say—"I swear that it is so"—is not truly an oath, because in that case, divine testimony is neither explicitly nor implicitly invoked. Thus, Salm, c. 2, n. 24, with Suarez, Sanchez, Bona, etc. Unless a question precedes concerning whether one should swear; because then, through the preceding question, that which is sworn is sufficiently determined to constitute a true oath. 137. 9. One does not swear when one says—"It is as true as the sun shines, as I am sitting here, walking, etc." Therefore, even if the comparison is false, it is only a lie, since no witness is invoked. The same is true if one says—"What I say is the Gospel, it is like faith, it is a matter of faith, etc." (To say—"This is true, as the Gospel"—is generally not an oath, as stated by Salm, *ibid.*, n. 27, with Sanchez and Paleari. And the same is held by the author of the cited book, *Institutiones Eccl.*, p. 153); because these words

denote rather an assimilation than an invocation, as Busenius adds shortly thereafter.) 10. Although these and similar comparisons...

[*Latin ed. p. 213*]

"It is as true as that Christ is in the venerable Sacrament, as true as the Gospel; likewise, I am as innocent as the Blessed Virgin or St. Francis, etc." – these expressions commonly appear to contain a blasphemy; however, this is not entirely clear, because no one is invoked as a witness. Nor does it seem to be blasphemy if it is true, and the intention of the speaker is merely to indicate a similarity, so that the understanding is that only one thing is true in its own way, as the other is true in its own way. However, it would be blasphemy if the speaker intended to signify that there is as much certainty (according to equality) in his statement as there is in a truth of faith. [Sanct. 2, moral. c. 31, n. 138, n. 11.]

"It is not an oath when one swears by creatures in which no divine goodness especially shines forth; because then they are not considered to be invoked in relation to God: as when one says: 'I swear by this herb, this garment, etc.' It is considered an oath, however, when it is done through more noble creatures; because then their Creator is understood through them, He who dwells and shines forth singularly in them. Thus, for example, when one swears by heaven, it is understood to mean the one who dwells there; when by the earth, it is the one of whom this is the footstool; when by a temple, it is the one who is worshipped there; when by a sacrament, it is the one who instituted it; when by the cross, it is the one who was crucified upon it; when by the Gospels, by touching or mentioning them."

[*Latin ed. p. 214*]

"For it is by these words that it is constituted. Bon. q. 1. p. 1. n. 4., Suar., Sanch. ll. cc."

DOUBT SECOND: WHAT ARE THE DIFFERENT KINDS OF OATH? 139-141. How is an oath divided into different kinds? 142. Are all oaths of the same kind? 143. Is the oath: "May God punish me if I lie," a valid oath? 159.

"Certain divisions are commonly given, but they are only accidental, which do not change the essence, so that it is not necessary to distinguish them in practice. Suar., Less., Bon. p. 2."

Therefore, it is divided as follows:

1. Into verbal, real, and mixed, since it is made either by words; or by some action, such as the raising of fingers, the touching of the cross, the scepter, or the Gospels; or both by words and by a bodily action, and for this reason it is also called a corporal oath. V. Bon. page 2.

149.

2. Into an invocatory or contestatory oath, and into an exsecratory or

imprecatory oath. The former is one in which God is simply invoked as a witness; the latter is one in which God is not only invoked as a witness, but also as an avenger, when the one taking the oath subjects himself or another beloved, or something of his or his own, to God to be punished if he speaks falsely: such as — "May God love me, help me" — "May God punish me" — "May God do so that from this..."

[*Latin ed. p. 215*]

"May I never rise again, nor may I ever behold my wife or children alive today—may God take me by a sudden death—may he damn me eternally—regarding my soul, etc.—: in these matters, when a false oath is sworn, whether another species of malice is joined to it against oneself or one's neighbor, the scholastic theologians dispute. Suarez, Valois, etc., deny it; because it does not usually happen that anyone would wish such evil for even his friend, but rather he thinks that God will not do it. See Bonaventure, *De Quatuor Sensibus in Sacra Scriptura*, Dist. 4, Quest. 1, p. 2, n. 141, n. 3, *In assertorium et promissorium*. The former is that in which past or present things are affirmed or denied; the latter is that in which something future is promised. Some add the comminatory oath, as, for example, "By God, I will condemn you"—but this can be referred to the promissory oath. In confession, it is not necessary to explain whether one swore by God or by the saints; because it is of the same species of malice, since the one who swears always intends to bring God as a witness. Suarez, Lessius, Lugo, Dist. 18, n. 286. It is asked whether all these oaths are of the same species. Palearius denies it. But the common opinion is better, as stated by Salmeron, *Tractatus de Othis*, 17, cap. 1, n. 18 and 19, and by Soto, Lessius, Sanchinez, etc. It should be noted that the aforementioned words—"I will kill, if this is not"—and similar phrases,..."

[*Latin ed. p. 216*]

Although oaths are true when spoken in the manner of an imprecation, because they signify: "May God, whom I invoke as witness, kill me, if this is not true"; nevertheless, generally they do not contain anything more than a certain promise or obligation of punishment, and they signify: "If it is not so, I pledge my life, or I submit myself to the penalty of death." *Salm. tr. 17. c. 2. n. 26. cum Pal., Fag., Trull., Villal., Bus. d. 1. n. 6., Sanch. dec. l. 3. c. 2. n. 236., Elb. n. 52.* Conversely, if God is expressly named there, saying: "May God damn me, if I lie," then God is already invoked as the avenger of falsehood, should it be uttered. *Sanch., Salm., Elb. ll. cc. cum Bus. mox supra n. 140.* However, to say: "Let me be considered a heretic, if this is false," is not a true oath; nor, speaking strictly, is it to say: "May so many angels take my soul, as many times I have done this," or: "May God favor me, as etc." *Ita Salm. n. 27. cum Pal. et Sanch.* Neither is it an oath to say: "I swear by this cross," provided the cross is not demonstrated or indicated.

Salm. n. 24. cum Sanch., Fag. et Vill.

[*Latin ed. p. 217*]

THIRD DOUBT. WHETHER AND WHEN IT IS LAWFUL TO SWEAR.

144. Whether it is permissible to swear. And what is required for a lawful oath.

145. What about the requirement of judgment?

146. What about justice? Is there a mortal defect of justice in an assertive oath? What about those who say: "By God! I will kill you."

147. What about the requirement of truth?

148. What certainty is required for swearing?

149. Is it permissible to request an oath from a perjurer?

150. Are rural peasants who perjure themselves excused from mortal sin? And how should they be admonished?

144. "It is a matter of faith that an oath, if taken in the proper manner, is lawful; indeed, it is an act of religion, as all teach. However, it is taken in the proper manner when these three things are observed in it: 1.° Judgment, which requires that it be done with discretion, prudence, consideration, and reverence, and not without necessity or a grave cause. 2.° Justice, which requires that what is sworn to be a just, lawful, and honest thing. 3.° Truth, so that the thing sworn to is either true, or at least is believed to be true for a grave reason; so that, just as a defect in any of these things leads to a greater or lesser offense against God or irreverence, so also a greater or lesser sin is committed." Therefore, it follows that:

[*Latin ed. p. 218*]

145. 1.º Concerning the judgment, if this alone is lacking, it is generally only venial: as when someone swears without necessity, either out of a certain lightness of mind or out of habit. V. Sanch. l. 3. c. 6. n. 22., Less.

2.º However, even here, one can sin mortally or venially, according to the quantity of negligence that the one swearing admits in the investigation of truth or in overcoming the habit. Sanch. n. 10.

3.º And thus, the state is mortal for those who do not overcome the habit of swearing without attending to whether what they are swearing to is true or false.

146. 4.º As for justice, he sins mortally who swears that he will do a gravely evil thing: such as that he will kill someone. Because it is a grave irreverence towards divine authority to obligate oneself to a mortal sin; thus, here two evils concur: one, that he desires evil; the other, that he abuses the authority of God, who hates all evil. Bon. l. c. p. 3., Less. l. 2. c. 42. d. 3. This is certain in a promissory oath. But the question is whether

the lack of justice in an assertive oath is a grave sin, if someone boasts of some sin under oath. The first opinion affirms this, according to Tolet. l. 4. c. 21. n. 10. and 11. and Sot., Less. etc. apud Salm. c. 2. n. 46. But it is more probable to say otherwise.

[*Latin ed. p. 219*]

It is not, unless it is against religion, a mortal sin, as Suarez states in *Disputationes de Religione*, volume 2, book 1, chapter 3, paragraph 6; Sanchez in *Decreta*, book 3, chapter 4, paragraph 33; and Salmeron, number 47, with Palotti, Tamburrini, and Leander, all agree. The reason is that in a promissory oath, that is, an oath to do something, it is mortal because the oath is taken to confirm the will to commit evil. In the case of an assertive oath, however, the oath is not taken to confirm a willingness, but only to make others more certain of one's sin, which is nothing more than a venial fault of the mind. However, it must be said differently, as Salmeron rightly points out in the aforementioned passage, along with others cited, if someone were to take an oath to confirm defamation; because in that case, the oath is taken as a means to make the infamy of another more certain. It should be noted here that those who, out of anger, utter words such as "By God!" or "By Christ!" or "I will kill you!" do not generally sin gravely, because they are usually excused by ignorance or lack of deliberation. Thus, the author cited agrees with me (*Institutiones*, page 154, section 5). Furthermore, one sins venially when one swears to do something that is venially bad, or vain, or useless, or frivolous; because in such cases, only a slight irreverence is considered. Bonaventure states this in the aforementioned passage, as does Lessius in the same place. (Tannery, Spotorno, Sanchez, etc., also hold this view.) However, the opposite opinion, held by Elbing, number 97, along with Marchiani, Tarranzo, etc., seems more plausible to me; because in such cases, the irreverence is not slight, but grave.

[*Latin ed. p. 220*]

1. It seems to invoke God as a witness and guarantor of truth, even if the matter is slight.

2. Furthermore, one sins venially who swears to something contrary to the counsels of the Gospel, such as swearing that he will not enter religion, or that he will not give alms or a loan. Suarez, Lessius, Sanchez, and Bona all agree on this.

3. Concerning truth, to swear falsely is to sin mortally, because it involves a grave irreverence towards God; for he who is brought in as a witness to falsehood, as if he himself did not know the truth, or did not will or could not testify truthfully. Here, the lightness of the matter does not serve as an excuse, because whether the matter is grave or slight, serious or jesting, it equally contradicts the testimony of God; and such an oath is called perjury.

St. Thomas, 2-2, q. 89, art. 7; Lessius; Sanchez; and Bona all agree on this. (Regarding this matter, see proposition 24, condemned by Innocent XI).

4. Whether and when perjury can be venial by accident, (namely, due to a lack of deliberation or attention), see Escobar, vol. 1, chapter 3, paragraph 6.

5. Neither is it excused if one swears to something true, but believes it to be false, or if one swears about something of which he himself is doubtful, even if it is true in reality. Sotus, Navarrus, and Bona agree on this.

6. However, for a correct oath, absolute and entirely infallible certainty is not required.

[*Latin ed. p. 221*]

But some moral certainty suffices, or indeed, some probability that leads to a certain moral certainty. Thus, Tamb. c. 2, § 1, n. 6. Indeed, Sanch. l. 3, c. 4, n. 10, with Val. and Suar., and Salm. cap. 2, n. 42, with Pal., Less., Bon., Azor., etc., with the common opinion, and ibid. c. 2, n. 49, more explicitly state that in an oath, or in an assertion, or in a promise, the probability of the truth asserted, or of the fulfillment of the thing promised, suffices; provided that, the term "probable" is not to be understood in the sense of being contrary to the truth. Hence, it can indeed be affirmed under oath that something has been heard from a person so worthy of trust that it makes us morally certain. However, this does not apply in a judicial setting. Salm. d. c. n. 44, with Sanch., Pal., Bon., etc. V. Bus. n. 144, 149, § 9. It is equally sinful for one to demand an oath from another, knowing that the other will perjure himself. Except, if there is a just cause and necessity (Pal. tr. 14, d. 1, p. 10, n. 9, and Elb. de jur. n. 110, state that a useful or honest cause suffices. See above, l. 2, n. 77); because then, perjury follows solely from the malice of the perjurer, and the other is not morally considered to be the cause of it, since he is exercising his own right. However, this rarely occurs outside of a judicial setting, among private individuals. S. Thom. q. 29, Suar. l. 3, c. 13 and 14, Sanch. l. 3, c. 8, n. 10. It is not perjury for one who has sworn something. LIG. Theol. Mor. T. III. K.

[*Latin ed. p. 222*]

"It is itself false, that which he himself, in good faith and with reason, believed to be true." 150. "111. It seems that certain simple folk can be excused from mortal perjury, by reason of inconsideration, when they use certain formulas of oath, such as — may God punish me —. For although they know that this is an oath, they do not understand that to swear is a grave thing, and to invoke God as a witness, but only that it involves some confused notion of evil, not of such great importance. V. Bon. l. c., Laym. c. 14."

Indeed, it should be noted that commonly, the uneducated do not understand the gravity of perjury; while confessing, they scarcely distinguish

true oaths from false ones: and this has been understood from practice in missions for a long time. Therefore, for those who have a habit of perjuring themselves in this way, confessors should rather refrain from instructing them about this grave sin, which perjury truly is, lest, because of their bad habit, material sins become formal; according to the general rule, as taught by Bus. de sacr. pen., with Lug., Sanch., and Laym., etc. V. lib. 6. n. 610. However, such habitual perjurers should be strongly warned to cease making false oaths. Moreover, it is not always advisable to warn such a simple penitent about the gravity of perjury, if the warning is foreseen not to be of easy benefit.

[*Latin ed. p. 223*]

FOURTH DOUBT. WHETHER IT IS PERMISSIBLE TO USE EQUIVOCATION IN AN OATH.

151. Is it permissible to swear under amphibology?

152. Is it truly permissible, with a mental reservation?

153. Cases are resolved concerning a confessor affirming that he does not know of a confessed sin.

154. Concerning an accused person or a witness not legitimately questioned.

155. What if he is legitimately questioned and swears equivocally?

156. And is a capital offender obligated to confess his crime?

157. Concerning a penitent questioned about a confessed sin.

158. Concerning a poor person in need of another's property.

159. Concerning a debtor who is otherwise not obligated.

160. Concerning one asked by a judge whether he has spoken with the accused, and similar matters.

161. Concerning a creditor asserting that nothing is owed to him.

162. Concerning an adulteress denying the crime.

163. Concerning a request to lend money.

164. Concerning a merchant, etc.

165. Concerning a servant asserting that the master is not at home.

166. Concerning those being admitted to the doctorate.

167. Concerning one asserting the acceptance of money which he has not received.

168. Concerning one asserting something false, while humbly adding something true.

169. Is it permissible for someone not questioned to swear equivocally?

170. See other cases in Basilius.

171. Is it permissible to swear without the intention of swearing? But see

this more fully in n. 172, doubt 5.

Question: Is simulation ever permissible?

151. Answer: To swear with equivocation is permissible when there is a just cause, and the equivocation itself is present.

[*Latin ed. p. 224*]

Although it is not evil, it is not the case that: because where there is a right to conceal the truth, and the truth is concealed without lying, no irreverence is done to the oath. But if it is done without a just cause, it will not be perjury, since at least according to some sense of the words, or a mental reservation, he swears truly; nevertheless, it will be of its kind mortally sinful against religion, since it is a grave irreverence to deceive another in a serious matter to take an oath. Thus, Comm. DD. Sauch. l. 3. c. 6., Bon. p. 12., Laym. c. 13. ». For greater clarity regarding what has been said and what is to be said in this matter, which is so difficult, more things must be distinguished. Firstly, it must be distinguished that there is one kind of amphibology, or equivocation, and another is a mental reservation. Amphibology can be in three ways: 1st, when a word has a double meaning, as when I want to mean "I want" and "I fly." 2nd, when a word has a double principal meaning, e.g., "this book is Peter's" can mean that Peter is the owner of the book, or that Peter is the author of the book. 3rd, when words have a double meaning, one more common, the other less; or one literal, the other spiritual: as those words which Christ said about John the Baptist: "He is Elias." And John the Baptist said: "I am not Elias." In this sense, spiritual men say that delicate foods harm them, that is, to mortification; those afflicted with pains say...

[*Latin ed. p. 225*]

To be in good health, that is, as regards spiritual strength. Cardinal [Dispensation] 19, n. 47. Thus, when asked about something that is advantageous, one can conceal it, and respond – I say "no" – that is, – I say the word "no" –. Cardinal [Dispensation] n. 52 doubts this, but, with a better counsel, it seems unwarranted, since when I say "I say" truly, the word has a double meaning; for it signifies both to bring forth and to assert; but in our sense, "I say" is the same as "I bring forth." With these things established, it is certain and common to all that, with a just cause, it is permissible to use equivocation in the manner explained, and to confirm it with an oath. Thus, Lessius, book 2, chapter 41, n. 47; Cardinal [Dispensation] 19, n. 35; Salmeron, *Tractatus* 17, on oaths, chapter 2, n. 115, from St. Jerome, chapter 22, question 2, who says: "A useful simulation, and one to be adopted in due time"; explaining this, St. Thomas [Summa Theologica] 2-2, question 111, article 1, ad 2, says: "St. Jerome uses the term 'simulation' broadly for any kind of fiction." The reason is, because then we do not deceive the neighbor, but, for a just cause, we allow him to deceive

himself; and, on the other hand, we are not bound to speak according to the minds of others, if a just cause exists. A just cause can be any honest end, for preserving goods useful to the soul or body. Salmeron, ibid., n. 109, with Vallet, Sanchez, Pontius, and Leander. Whether to swear with ambiguity, or with a restriction that is not purely mental, as will be explained below, without a just cause, is a mortal sin.

[*Latin ed. p. 226*]

In proposition 27 of the second book of dissertations, condemned by Innocent XI, as well as by Tollet, Anglerius, Arminius, Navarrus, etc., as found in Sanchez, *Decisiones*, book 3, chapter 6, number 2: Busenius also holds this view, as he asserts, along with Layman, Sanchez, and others. However, he unjustly cites Sanchez and calls his own opinion "common," while Sanchez, in the aforementioned passage, holds the opposite view, and Lugo, in *De Fide*, book 4, number 64, Cajetan, 2nd part, question 89, article 6, ad 4th doubt, Salmeron, chapter 2, number 108, along with Soto, Valdés, Prado, Hurtado, Candamo, Leander, etc., also hold the same view. Furthermore, Lessius, in book 2, chapter 42, number 48, and Palotti, *Tractatus*, 14th decision, 1st page, number 3, also hold this view, and Busenius considers it probable, as stated in number 170, 3. The reason for this more probable opinion is that in such an oath, truth and justice are already present; only judgment or discretion is lacking, and this deficiency is only venial. Nor does it contradict what Viva says, namely, that one who swears in this way invokes God to testify to a falsehood. For in reality, he invokes God to testify to the truth, according to his own understanding, although he allows, for a just cause, that another may be deceived through his own negligence or inattention. However, this exception, as Salmeron and others state in the aforementioned passage, applies only in judicial proceedings or in contracts. From the aforementioned opinion, it follows that, besides in judicial proceedings and contracts, an absolutely grave reason is not required for such an oath, but any reasonable reason suffices, such as to free oneself from an importunate and unjust [demand].

[*Latin ed. p. 227*]

In the interrogation of another, as they say in Psalm 109, with Valerius, Sanchez, Bona, Palafox, etc.; Roncaglia de jure, chapter 4, question 2, rule 3; Elbio, number 129. However, it must be noted that, as Roncaglia states in the aforementioned passage, a greater cause is required to render a statement ambiguous in the context of an oath than would be required without such an oath. It must also be noted, as Sanchez states in number 109, that the more a statement offers an opportunity for error, the greater the cause required for its ambiguity. Therefore, they say that when words offer virtually no opportunity for error, such as when the words are inherently ambiguous and possess two equally valid meanings, then the slightest cause

suffices for an excuse.

152. A mental reservation is either purely mental, which cannot in any way be perceived by others; or it is not purely mental, which can be made known through accompanying circumstances. A purely mental reservation is never permissible, nor is an oath given with such a reservation, as is evident from three propositions condemned by Pope John XI, in which I, number 26, stated: "If someone, whether alone or before others, whether questioned or of their own accord, or for amusement or for any other purpose, swears that they have not done something that they have truly done, understanding within themselves something else that they have not done, or taking a different path than the one they were on, or adding something else to the truth, then they do not truly lie, nor are they perjurers." II, number 27, stated: "The just cause for using such ambiguities is whenever it is necessary or..."

[*Latin ed. p. 228*]

It is useful for the salvation of the body, for honor, for the preservation of family affairs, or for any virtuous action; thus, the concealment of truth may be considered neither expedient nor studious. III. n. 28. He who, through recommendation or favor, is promoted to a magistracy or public office, may, with a mental reservation, take the oath that is commonly required by the king's command, without regard to the intention of the one demanding it; because he is not bound to confess a hidden crime. Conversely, it is permissible, for a just cause, to use a non-purely mental reservation even when taking an oath, if that reservation can be understood from the circumstances. This is demonstrated from John 7:8, where Christ said: "Go you up to this festival day." And yet, Scripture narrates that He later ascended: He did not ascend, understanding clearly, as the disciples inquired, but ascended secretly. Similarly, from Mark 13:32, where the Lord said: "But concerning that day, or that hour, no one knows..." neither the Son, except the Father; nor does He intend to reveal it, as explained by St. Augustine, page 6, in the prologue. Likewise, St. Thomas [Summa Theologica] 3, part 1, question 10, article 2, ad 2, states: "It is said to be unknown, because it is not made known; that is to say, as if He had said: I do not know in order to make it known to others." And the same is held by St. John Chrysostom, St. Jerome, St. Ambrose, St. Athanasius, St. Basil, St. Hilary, etc.; as testified by Suarez, volume 3, in 3, question 10, article 2. This opinion is commonly held by Gonet, Manual, volume 5.

[*Latin ed. p. 229*]

tr. 8. c. 2. §. 3., Laym. tr. 3. l. 4 c. 13. n. 7. v. Interim, Palud. in 4. d. 9. q. 3. a. 3. concl. 1., Adrian. in 4. de sacr. confess. d. 6. §. ad arg. Major. in 4. d. 15. q. 18. q. 1., Soto de secreto, membr. 3., Wig. tr. 10. exam. 4. n. 61. resp. 3., Card. in 2., Crisi diss. 19. n. 81. (qui in prop. Innoc. XI. diss. 19.

n. 48. cum Suar. et Lugo ait idem dicendum si respondeatur ad mentem interrogantis), Læ-Croix l. 3. p. 1. n. 287., Holz. t. 1. de juram. pag. 273. n. 490., Elb. eod. iii. t. 2. pag. 52. n. 144., Spor. tr. 3. c. 1. n. 115., Viva in prop. 27. Innoc. XI. n. 4. et Salm. tr. 17. c. 2. n. 117., ubi dicunt hanc sententiam esse communem fere omnium DD. Idem sentit Cont. Tourn. t. 11. p. 689. cum Varroi et Bourd., dicens etiam strictiores theologos has restrictiones late mentales (quod idem est ac non pure mentales) negare esse illicitas, ex Aug. qui in lib. contra mendac. c. 10. ait: Quamvis omnis qui mentitur velit celare quod verum est, non tamen omnis qui vult quod verum est celare mentitur. Consentit etiam rigidissimus Contens. t. 4. diss. 2. c. 1.; nam explicando illud Jo. 7. de ascensu Christi ad diem festum, dicit Christum verba subobscura adhibuisse in quibus poterat vir prudens verborum sensum facili interpretatione aperire. Favet D. Th. (ut recte...

[*Latin ed. p. 230*]

(St. Augustine, *De Mendacio*, ch. 2, §2; and *Summa Theologica*, 2nd part, question 110, article 5, objection 4.) It is one thing to conceal the truth, and another to propose a falsehood. Furthermore, it is stated: It is not licit to tell a lie in order to free someone from some danger; yet, it is permissible to prudently conceal the truth under some dissimulation, as Augustine says in his book *Against Lying*. The reason for this judgment is that, if it were not permissible to use a mental reservation that is not purely mental, there would be no way to licitly conceal a secret, if one could not reveal it without harm or inconvenience; which would certainly be as pernicious to human commerce as lying. The condemnation by the pontiff of a mental reservation should be rightly understood as referring to a reservation that is purely and strictly taken; for only that mental reservation should be called a true mental reservation which is only made in the mind and remains so hidden that it cannot in any way be recognized from external circumstances.

From this, it follows that 1.º The confessor can affirm, even under oath, that he does not know the sin heard in confession, understanding this as a man, and not as a minister of Christ, as taught by St. Thomas [Aquinas] in *Summa Theologica*, 2nd part, question 70, article 1, objection 1; by Lugo, *Disputationes*, 22, (who, however, in note 75, explains the word "does not know" in another way, as referring to knowledge that is useful for answering); also by Spotorius, *De Praeceptis*, chapter 119, and by Elbarto, *De Juramento*, number 149, and others.

[*Latin ed. p. 231*]

The reason is that the one who asks has no right except to obtain knowledge that can be communicated, which is not the case with the confessor. And this is so, even if another asks whether he has heard it as a minister of Christ. Lugo, n. 66; *Viva* in *prop.* 17; Inn. n. 3 et 13; Ronc. de II. præc. c. 4; Reg. prax. n. 2; Elb. de jur. n. 130, and others. Because the confessor must

always be considered to answer as a man; for as a minister of Christ, he cannot speak. Hence, they say, Cardinal, *diss.* 19, n. 39, *in fine*, and 67, and Pot. de jur. n. 1734, that whenever someone is obligated to conceal the infamy of another, he may lawfully say, "I do not know," meaning: "I do not have the useful knowledge to answer," or: "I do not know in such a way as to reveal it," as the Cardinal says with Lugo, *d. loc.* n. 43 and 44. And if someone rashly asks the confessor whether he has heard of such a sin in confession, he can rightly answer, "I have not heard," meaning either as a man, or in order to reveal it. Cardinal, with Lugo, n. 66, 154, 2. o A defendant or witness not legitimately questioned by a judge may swear that he does not know the crime which he truly knows, implying that he does not know the crime about which he may legitimately be questioned, or that he does not know in order to testify. Thus, Caj. opusc. t. 1. tr. 31. r. 5; Spor. de II. præc. c. 1. n. 120 et 121; Az. t. 1. l. 11. c. 4; Ronc. de II. præc. c. 4. q. 2. r. 3; Sanch. dec. l. 3. c. 6. n. 23 et 26, with Nav., Tol., Val., etc., from the same *D. Th.* 2. 2. q. 69. a. 1.

[*Latin ed. p. 232*]

Furthermore, if a witness from the opposing side is not obligated to testify, namely, if it is clear to him that the accused is innocent, as stated in Psalm 10:2, number 259, and in Elbing, number 145; or if he knows of the crime, but under seal of secrecy, without any prior suspicion, as stated by the Cardinal, ibid., number 51. However, the accused, or a witness who is legitimately questioned by the judge, may not use any ambiguity; because he is bound by the just precept to obey the superior. This is the opinion of Salm, chapter 2, number 146, along with Soto, Lessius, Sanchéz, etc., and Busenius, number 2. The same applies to an oath in burdensome contracts, because otherwise, an injustice would be done to the other party. Salm, ibid. An exception exists in a trial, if the crime is entirely hidden; then, the witness can, and indeed must, state that the accused did not commit the crime. Tamborini, chapter 4, section 2, number 4, along with the Cardinal and Potthast, as mentioned above. The same applies to the accused, if there is not even prima facie evidence, etc. Tamborini, section 3, number 2, along with the common opinion, because in that case, the judge is not legitimately questioning. 155. But the question arises here: 1st, if such an accused or contracting party deceives by ambiguous swearing, can he be absolved unless he reveals the truth? Some deny this, not improbably; but it is more probable that Sanchéz, decrees, book 2, chapter 7, number 8, and Salm, chapter, number 2, 147, along with Philiarc, affirm this, because with such an oath (which cannot be called perjury), he has not sinned against commutative justice, but against legal justice and the obedience due to the judge, whose precept, concerning the revelation of the truth, has been

transgressed.

[*Latin ed. p. 233*]

It is only permissible to delay and evade [payment] while the judge inquires. Saint Sanchez says the same concerning a perjured witness [in *ib.*]. And therefore, both [parties] can be absolved without revealing the truth. However, one party is truly obligated to satisfy the other if they can do so by another means. But if they cannot, Salm [writes] that they are to be compelled again in court to disclose the debt. But even an excuse is permissible if they are utterly unable to satisfy the obligation in the present and in the future.

156. Question 2: Whether an accused person, legitimately questioned, may deny the crime even under oath, if a grave harm threatens him from the confession. Elb [writes] "no" in number 44, as does D. Th. in article 1, section 2, and this is more probable; because the accused is obligated to endure that harm for the common good. But Lugo, in *de just.*, number 40, paragraph 15, and Tamb. in book 3, chapter 4, section 3, number 5, along with Sanchez, *Viva*, question 7, article 4, number 2, and Spor. in *de II. præc.*, chapter 1, number 15, and also Elb. in the dictionary, number 144, and Card. in the propositions of Innocent XI, dissertation 19, number 78, along with Nav., Less., Sa, Fill, and many others, say that the accused, if threatened with the penalty of death or imprisonment, or perpetual exile, or the loss of all possessions, or a trireme [confiscation], and similar things, may deny the crime even under oath (at least without grave sin), implying that he did not commit it, insofar as he is obligated to confess, provided there is hope of avoiding the penalty. The reason is that human law cannot impose such a heavy burden on people. Elb adds this opinion, although a greater...

[*Latin ed. p. 234*]

It is probable, though it should be carefully considered, that those who are guilty and confessing may, in order to be absolved from a grave fault into which they easily fall, if they are compelled to confess their sins. See [Author's work, book 4, paragraph 274, 157, 3].

Regarding a penitent who is questioned by a confessor about an unconfessed sin, he may swear that he has not committed it, implying that he has not confessed it. Thus, [Cardinal's work, dissertation 19, paragraph 48], [Salm, paragraph 118, in fine], [Sanch, book 3, chapter 6, paragraph 14], [Spor, on the two precepts, chapter 1, paragraph 105]. However, this must be understood, unless the confessor justly questions in order to ascertain the state of the penitent, according to proposition 58 of the decree of Innocent XI.

Regarding someone in need of hidden goods for sustenance, he may answer to the judge that he has nothing; [Salm, paragraph 140]. Similarly,

a heretic who has concealed goods without an inventory, if he is not compelled to satisfy his creditors from them, may answer to the judge that he has concealed nothing, implying that he has not concealed the goods from which he is obligated to satisfy. [Salm, ibid., and Rone, chapter 4, Reg. 2, in practice].

Regarding someone who has received a loan, but has subsequently repaid it, he may deny that he received the loan, implying that he owes it. [Salm, paragraph 140, and Spor, on the two precepts, chapter 1, paragraph 122, with Suar., Nav., Az., Laym., Sanch., Cov., and others]. Similarly, if someone has been compelled into marriage, he may assert to the judge, even under oath, that he has not entered into marriage, namely, freely, as...

[*Latin ed. p. 235*]

It is equal. Tol. lib. 4. c. 21., Laym. c. 14. n. 8., Nav. in c. Humanœ aures 22. q. 5. et Spor. l. c., who says the same about the one who invalidates the marriage. Likewise, he who has promised marriage, but is not bound to it, can deny the promise, namely, so that he may be held bound by it. Salm. n. 140. He who is not bound to pay a tax can answer that he owes nothing, namely, from which he should pay the tax. Card. n. 77., Salm. n. 140., Spor. l. c. n. 121. with Led. He who comes from a place falsely believed to be infected can deny that he came from that place, namely, as if he had the plague, because this is the intention of the guards. Salm. n. 141., Less. c. 42. n. 47., Sanch. dec. l. 3. c. 6. n. 35. et Spor. l. c. n. 140. with Tol., Nav., Suar., Henr., Rodr. etc. Indeed, Tol., Less. and others, as cited by Spor., admit this, even if he passed quickly through the infected place, provided he is certain that he has not contracted any disease; because it could be understood that he did not come, so that the danger would not be feared from him: but to this I do not entirely agree. They also admit, Salm. in the same place, with Bus., that if anyone is forced by a madman to promise money under oath, he can understand: "I will give, if I owe you," with the oath set aside; because they say that that promise can admit of such ambiguity, depending on the circumstances. Likewise, a wife to whom it is clear that the marriage is null, can, to a judge or confessor, who otherwise would not,

[*Latin ed. p. 236*]

To absolve her, promising under oath to cohabit with the man, even if she does not intend to, understanding that the cohabitation is lawful. Salm. d. n. 141. 160. 6. o If asked by a judge whether he has spoken with the accused, he may deny it, understanding that he has not spoken in order to cooperate with the crime. A canon, obligated to secrecy, may swear that he has revealed nothing, if truly he has revealed nothing of those things which he was bound to conceal. Thus, Salm. n. 142., who assert that all of these things are commonly found among all authors. Similarly, Less. c. 42. n. 48. with Alex., Barth. etc., if one who is chosen for office is asked

whether he has any impediment, he may deny it, if truly that impediment does not exist. Similarly, if one is asked whether the food is good, when it is truly tasteless, he may answer that it is good, namely, for mortification. Card. diss. 19. n. 74. Thus also, they say, Card. n. 76. and Croix lib. 3. p. 1. n. 302. that it is lawful to perform ceremonies: "I kiss your hand" — "I offer myself as your servant, etc.," because from common usage they are understood as material words, spoken only for honor. It is also lawful to conceal the truth with a reason, e.g., if someone asks you for money, you may answer: "Would that I had it!" Or: "I would gladly have it, etc." Card. diss. 19. n. 53. 161. But it is asked: o whether a creditor from a document may assert under oath that he has...

[*Latin ed. p. 237*]

It is released from obligation, if it truly is a released portion, but the debtor himself has a debt from another source. This, however, cannot be proven. It is answered that this is possible, provided that he does not swear that the amount is owed to him by that instrument, nor is harm caused to other prior creditors. Thus, Salm. cap. 2, no. 143, with Sanch., Pal., Leand., etc., 162.

Question 2: Can an adulteress deny her adultery to her husband, knowing that she is revealing it to him? She can assert, equivocally, that she has not broken the marriage, which truly persists; and, if she has confessed the adultery sacramentally, she can answer: "I am innocent of this crime, because it has already been removed through confession." Thus, Card. diss. 19, no. 54; however, he notes here that she cannot affirm this under oath, because to assert something, the probability of the fact is sufficient; but to swear, certainty is required.

However, it is answered that for swearing, moral certainty is sufficient, as we said above, diss. 3, no. 147, with Salm. c. 2, no. 44, Less., Sanch., Suar., Pal., and communis. This moral certainty of the remission of sin can indeed be had when someone, being well morally disposed, has received the sacrament of penance.

To the question, they say, Salm. no. 144, with Soto, that one cannot deny the form of adultery, because it would be a pure mental restriction. However, Card. no. 60 admits that in danger of death, it is permissible to use a metaphor, which is common.

[*Latin ed. p. 238*]

It is found in Scripture, where adultery is equated with idolatry, as in Ezekiel 23:37: "Because they have committed adultery... and have fornicate with idols." Indeed, if the crime is truly hidden, it is probable, as stated in Basilica, book 1, chapter 4, and Lessius, Trull, ibid., and Sanchez, book 3, decision 2, paragraph 41, that, with Sotus, Sayr, and Aragona, a woman may deny the act with an oath and say, "I have not committed it," in the

same way that an accused person may say to a judge who is not legitimately questioning him, "I have not committed the crime," understanding "I have not committed it" to mean that he is not obligated to reveal it, as Tamburrini states in his commentary, chapter 4, section 3, paragraphs 1 and 2, and Viva, question 7, article 4, paragraph 2, 103, question 3.

It is asked whether one who is required to lend money may swear that he does not have the money, when in truth he does, understanding "does not have" to mean that he does not have it to give as a loan. Salmasius denies this, paragraph 145, with Sotus, Henricus, Ratio, because that restriction cannot be perceived from the circumstances. But this must be understood if the truth cannot be perceived in any way; for if it could be inferred from some circumstance, for example, the poverty or indigence of the borrower, then it would be permissible for him to understand "I do not have any surplus," so that he may not lend. Thus, Roncaglia, in the second part, chapter 4, regulation 2, in the preface, Viva, question 7, article 4, paragraph 2, with Sanchez, Bonaventure, Silvestro, etc., and Gardanus, dissertation 19, paragraph 48, with Suarez and Lugario, in "De Paenitentia," dispute 23, session 4, paragraph 74, who teaches thus: "He who has one loaf of bread that is necessary for him truly responds that he has none."

[*Latin ed. p. 239*]

Those who ask for a loan of bread; because they have no one from whom they can borrow, from whom alone they are asking. And the same is said in Cardinal [L'Hermite]'s work, no. 73, concerning money asked for, if it is necessary for the lord. 164. Question 4: Whether merchants can swear that a commodity is more expensive to them, understanding this in comparison with another commodity. Some affirm; but Salm. rightly denies this, in his work, no. 145. However, Croix states that it can probably be done, in book 3, page 1, no. 301, with Gobellus, when they do not understand this to refer to the mere price of the thing, but rather include expenses for transportation, for storage, etc. 165. Question 5: Whether a servant, by the order of his master, can deny that the master is at home. Cardinal L'Hermite, in his *Disputationes*, no. 19, no. 75, admits that one can put one's foot on a stone and answer: "He is not here"; because there is no mental restriction: but I do not agree with this, if another can in any way discover this. Rather, I would allow one to say: "He is not here," meaning, "not at this door or window," or (as Tournhem says, *Moralis*, vol. 1, page 689), "He is not here, insofar as he can be seen." Furthermore, the Cardinal says that one can answer: "He has gone out of the house," understanding this in the past tense; for, he says, with Lessius, as above, we are not obliged to answer according to the mind of the questioner, if there is a just cause. Otherwise, if one is asked whether the lord left this morning, as Croix says, in book 1, page 1, no. 184, so too the Cardinal, no. 72, says that a servant can answer

concerning a noble man who is in mourning—that he is.

[*Latin ed. p. 240*]

foris —, that is to say, to be removed from the community, as is commonly understood from the manner of speaking. 166. Question 6. Whether those who are admitted to the degree of doctorate can swear, with equivocation, that they fulfill the required condition, namely, that they have been engaged in the study of science for so many years, etc., if such individuals are as suitable as other doctors. See Tamb. Dec. lib. 3. cap. 2. §. ex n. 11., who affirms that there is then a just cause for swearing in this manner, so that those who are already worthy may not be rejected. But, whatever may be the case regarding this matter, it seems to me more probable that those who are to be made doctors in Naples, who customarily write with their own hand when enrolling, should not swear: I say that the first year is instituted, etc., when in truth this is not the case. The reason is that the word "I swear" or "I say with a vow," as we said above in question 1, number 136, with Psalm 2. number 24, Bon., Sanch., Suar., is not a vow concerning oneself, unless it is preceded by a question about the vow. But this question is either not asked at all in Naples, or it is not asked about a true vow, but only about that material writing, which, according to common usage, does not seem to be considered a true vow. 167. Question 7. Whether one can lawfully assert before a notary that he has received money, which he has not truly received. Tamb. affirms that it is possible, ibid. n. 20 and 25, by using the word in a non-literal sense, namely, by swearing that he has received money as if he had received it, or...

[*Latin ed. p. 241*]

To receive something from one who is certain that the other will shortly pay him the money. And it seems probable from common usage of language. 168. Question 8. Whether it is permissible to swear to something false, adding, however, with a subdued voice a true circumstance. Hurt and Prado, along with others, affirm this in *Salm.*, chapter 2, number 136, against Torre, who says that, for speech to be true, it suffices that it externally agree with the concept of the mind, whether it is explained by gestures or by a subdued voice, and that it is accidental that the other person does not hear. But Salm., number 138, more correctly states that this is permissible, if, however, in some way the other person can perceive that subdued expression, even if the meaning of it is not perceived; otherwise, if it is entirely hidden from the other person. 169. "1. He gravely sins who uses equivocation when he swears, not being asked, but spontaneously of his own accord: because then he is bound to use words according to their common meaning," says Tol. in *lib.* 4, chapter 21, "because he has no reason for equivocation." 170. However, Salm., chapter 2, number 142, at the end, with the common opinion, states the contrary, namely: that when

there is a just cause of necessity or utility, one can use ambiguities in an oath, even if he offers himself spontaneously to swear. 2. "He also gravely sins who uses equivocation when an oath is justly demanded, such as by a judge or a superior in a serious matter." *Bon.*, in the cited place.

[*Latin ed. p. 242*]

3. If such an oath is made concerning a trivial matter, in jest, and without intending to cause significant harm to another, it is only venial, as Sanch. teaches, book 3, chapter 5, against other opinions; because it lacks true discernment or judgment. See Bonaventure, book cited.

4. It is permissible to swear equivocally, if the oath is demanded unjustly, for example, if someone demands an oath who has no right to do so; for example, an incompetent judge; or if the proper order of law is not observed. Also, if it is demanded by force, violence, or fear, for example, if a man demands an oath from his wife concerning a hidden adultery; or if robbers demand an oath from you along with a ransom. See Sayr, book 4, chapter 3, and book 1, chapter 17; Lessius; Trull, book 2, chapter 1, decree 15.

5. He who swears only outwardly, without the intention of swearing, is not bound, unless perhaps due to the risk of scandal, if he has not sworn, but rather jested. However, externally, he can be compelled to observe it. See Sanch., moral theology, chapter 10, paragraph 11; Trull, book 2, chapter 1, decree 10. (But regarding this, see what will be said shortly, in the following questions.)

Question: Here, concerning the last point, is simulation ever permissible?

Answer: Formal simulation, namely, when someone intends to signify something different through an external act than what they have in mind, is never permissible, because it is a true lie of fact, as taught by the *Summa Theologica*, 2-2, question 111, article 1. However, material simulation, namely, ...

[*Latin ed. p. 243*]

When someone acts, not intending to deceive another, but pursuing some other end, this is permissible with a just cause, provided that, as the circumstances allow, others might reasonably infer that the action is being done for a different purpose, as has been stated concerning the restriction not purely mental, n. 152. Thus, in Joshua, chapter 8, Joshua lawfully flees, not intending to signify fear, but so that the enemies might be led far away from the city of Hai, and the remaining soldiers might attack the city. Likewise, the Lord Christ, in Luke, chapter 24, at Nicopolis, feigned that He would go further, not intending that the disciples should believe this, but wishing to signify that He had truly gone further, unless they invited Him. Thus, Croix, book 3, part 1, n. 298. FIFTH DOUBT. WHAT AND TO WHAT EXTENT IS THE OBLIGATION OF A PROMISSORY

OATH? 172. How much truth must be affirmed in a promissory oath? And what sin is a false promissory oath, and how does it obligate? 173. Does one sin gravely by not fulfilling a promise in a small matter? 174. Does an oath made under duress obligate? 175. What if it were extorted by error or deceit? 176. Does an oath concerning a bad or vain thing obligate? 177. What about an oath made in favor of a third party? 178. Does an oath not to play exclude moderate play? 179. Does an oath made against oneself obligate? 180. Must an oath follow the condition of the promise?

[*Latin ed. p. 244*]

181. How the oath to observe the statutes of a certain college obliges.

182. Concerning the oath of physicians not to visit [certain patients].

183. Concerning the oath to preserve a secret, to tell the truth, and to pay a debt.

184. Whether an oath made by a concubine not to acknowledge another obliges.

185. Whether a rash promise made with an oath obliges.

186. Whether an oath to return to a career obliges. Concerning the oaths of parents and masters to punish their children and servants.

172. "RESPONSE. 1st. In a promissory oath, two truths are affirmed: one primary, namely that the one swearing intends to fulfill what he promises; the other secondary, namely that he will fulfill it in due time; whether he promises to God, and it is a vow with an oath; or to a man, and it is a human sworn promise. Hence, the obligation to fulfill arises, if it can be done reasonably. Thus, generally, Laym. lib. 4. tom. 3. c. 6., Bon. p. 7. "

Therefore, it follows that: 1st. If the primary truth is lacking, the one swearing truly sins mortally if he does not have the intention of fulfilling [the oath], whether the matter is small or large, lawful or unlawful; or if he doubts whether he will or will not do what he swears; or if he believes it morally impossible for him to fulfill what he promises: because with regard to this present truth.

[*Latin ed. p. 245*]

"A promise is not different from an oath; therefore, neither does the smallness of the matter excuse [one from sin]." R.B. (Indeed, he sins gravely who promises something under oath, believing it impossible to fulfill. Thus, here, Bus. But it must be added, with Salm., cap. 2, n. 49: that Az., Suar., Fag., Leand., etc., hold that it is otherwise, if he had a probable reason for fulfilling it). Question: What sin is a false oath made in a promise, and to what does it obligate? I distinguish: In three ways a person can falsely promise under oath: 1st, without the intention of swearing; 2nd, without the intention of obligating oneself; 3rd, without the intention of fulfilling. 1st, If someone swears without the intention of

swearing, he sins, as from prop. 25 of the damnation by Ianoc. XI, which says: "When the cause is licit to swear without the intention of swearing, whether the matter is light or grave." The reason is, because then he deceives the divine testimony. But does he sin gravely here, if he swears without the intention of fulfilling the promise? The answer is affirmative, if he swears without the intention of fulfilling the promise; but if he does so with the intention of fulfilling, he sins only venially, as the common doctors say. Sanch., dec., lib. 3, c. 6, n. 10; Ronc., de jur., c. 4, q. 1, r. 3; Tamb., de jur., lib. 3, c. 3, §. 2, n. 4; Elb., de jur., n. 129; Mazz., ibid., tit., c. 3, q. 3. It is rightly objected, if the oath is made in contracts or before a judge; because then, although it is not perjury, it is nevertheless a grave deception against justice. Lie., Theol. Mor., T. III. L.

[*Latin ed. p. 246*]

2. "However, if one swears without the intention of being bound, but with the intention of fulfilling [the oath], Cajetan, 2.2, question 8, article 6; Croix, book 3, page 1, number 2; also St. Antoninus, Navarrus, Scotus, Tamaris, and others, as is commonly stated by Sanchez in the aforementioned work, number 5, hold that this constitutes a mortal sin, firstly because the one swearing in this way falsely signifies that he has the intention of being bound, which he does not truly have; secondly, as Croix believes to be more probable, it seems to lead to a grave irreverence, bringing God as a witness and refusing to be bound by His testimony. However, Sanchez, number 7; Tamaris, number 6; Elbensis, number 21; Renzi, *de jur.*, page 125; and Antoninus *a Spir. S.*, to which Roncaglia adheres, book cited, rule 4, hold that this is not a sin unless it is a venial sin. The reason is that the one swearing in this way, even though he has the intention of fulfilling [the oath], since he does not intend to be bound, on the one hand, does not swear falsely, because he asserts something true about his present will; on the other hand, since he does not have the will to be bound in any way by the force of the oath, which, by its intrinsic nature, is to induce an obligation of conscience, he does not truly swear, as is commonly said by Salmeron, *tr.* 17, chapter 1, number 19; Elbensis, cited above; Sporer, *in II. præc.*, chapter 1, number 134, etc. And therefore, this oath is the same as if it were made without the intention of swearing; which is not a mortal sin, but only a venial sin, when something true is asserted, as stated above. But if one swears with the intention of swearing, but without the intention of being bound..."

[*Latin ed. p. 247*]

Regarding the obligation to observe an oath, the first opinion holds that it is not binding, for two reasons: first, because a heretical oath is invalid, as stated above; and second, because God does not accept promissory oaths unless they are made according to the intention of the person taking the

oath, as stated in *c. Humane aures*, question 5, where it is said: "Divine judgments hear our words according to the meaning that is expressed within." This is supported by Pal. tr. 24, d. i. p. 8, n. 7; Salm. d. c. i. n. 15; Ronc. r. 4; Tamb. n. 7; Mazz. l. c.; Elb. n. 125; and Sanch. dec. lib. 3, cap. 10, n. 8, along with St. Bonaventure, St. Antoninus, Scotus, Silvestri, Navarrus, Arminius, Gabriel, Anglerius, and others, as Azor asserts. Furthermore, D. Th. clearly supports this in n. 3, d. 39, question 1, article 3, where it states: "But if one simply swears without deceit, then in the forum of conscience, he is only bound according to his intention." And the same is confirmed in 2-2, question 89, article 7, ad 4: "But if the one swearing does not use deceit, he is bound according to the intention of the one swearing." He who swears without deceit (as Elb. states in n. 218, with others) is the one who swears regarding something to which he has no just right according to justice, concerning the promised thing.

However, the second opinion affirms that the oath must be observed. This view is held by Less. lib. 2, c. 42, n. 37 (although he considers the opposite view to be highly probable); Caj. 2-2, question 89, article 7; Suar. c. 7; Sot. lib. 8, question 1, article 7; as well as Valentinus, Sayr, Fill, Arag, apud Bon. tom. 2, d. 4, question 1, p. 7, n. 3; and Renzi de juram. p. 125, question 5.

[*Latin ed. p. 248*]

The reason is this: he who swears with the intention of swearing, already utters a true oath; and therefore, he is bound to ensure that what he swears becomes true, in order to maintain the reverence due to the divine name. He cannot separate the obligation to fulfill the promise from the oath itself, since the obligation arises from the oath itself, and the nature of an oath is to produce the effect of what is sworn, lest God be invoked as a witness to falsehood. And in this, the difference between a vow or contract and an oath becomes apparent. For in the former, the obligation depends on the intention of the one making the vow or entering into the contract, while in an oath, the obligation arises from the force of the oath itself. Both opinions are probable; but the first is more probable. For the reason given for the second opinion presupposes that a certain oath, made without the intention of obligating oneself, is nevertheless a true oath; however, it is more probable and common, as Salm. c. i. n. 19, among others, as mentioned above, and also Viva in prop. 25. Innoc. n. 13. (contra Less. dict. n. 37.) state, that such an oath is not a true oath, both because it lacks the necessary condition for the nature of a promissory oath, which is the intention of obligating oneself, and because an oath follows the nature of the promise it confirms, as is certain from Bus. n. 280, with Less., Bon., etc. But a promise made without such an intention is not a promise at all, but a simple declaration;

therefore, when that intention vanishes...

[*Latin ed. p. 249*]

With the promise, the oath also vanishes, and it is considered as a deed made without the intention of swearing, which, as we have seen, is certainly null. However, if no oath exists, there is no obligation to fulfill it.

3. If, on the other hand, someone swears without the intention of fulfilling, but with the intention of swearing and obligating himself, he certainly sins mortally; because even now, the truth is lacking in the present. However, is that person obligated to fulfill the promise? The answer is affirmative: because the essence and obligation of the oath remain. *Tom. 1, n. 6; Mazz. loc. cit.; and Sanch. lib. 3, c. 10, n. 5, with St. Bonaventure, Leo, and Suarez, who call the opposite improbable. And this must be said, even if he had no intention of obligating himself by force of the promise; because he is obligated from elsewhere by the force of the oath, as Sanch. n. 6, *Tom. 1, and Mazz. loc. cit. state; and they rightly point out that he who has a true intention of swearing and does not consider the obligation of the oath is truly obligated, because the obligation follows from the very nature of the oath; and he who wills an act, wills also the consequences of that act. The same author says that if he is ignorant of the obligation of the oath; but this is contradicted by Salm. dict. c. 1, n. 23, speaking of a vow, where, according to the common opinion, it is said that if someone is ignorant that a vow entails an obligation and, with this error, makes the vow, he does not fulfill the obligation, unwillingly.

[*Latin ed. p. 250*]

He is not bound by a vow, because no one incurs an obligation unless he willingly imposes it upon himself. See the words concerning vows, number 203. See also *Sed quær.* 1, and see the words mentioned above, where we saw that an oath does not obligate beyond the intention of the one who makes it. However, if someone is unjustly compelled, for example, by a robber, to promise something under oath, he may lawfully intend not to fulfill the promise, if he obtains a dispensation from the oath. Thus, it is probable, according to Croix, book 1, page 3, number 278, with Suarez, Sanch., and *Diana Veteranorum*, 173.

2. Truly, he sins who fails to fulfill what he promised afterwards, if he can reasonably fulfill it. The doubt here is whether one who promises something small under oath, for example, to give another a single apple or coin for alms, or to chastise a child, or, while selling, to refuse to sell at a lower price, or to refuse to occupy the first place or to precede at the entrance of a gate, etc., is, I say, bound under a grave sin to keep his word. Speculatively, it seems that this is the case; because God is truly taken as a witness that he will do it; therefore, if he does not do it without a reason, he makes God a false witness, to the extent that it is within his power. Cajetan, Vallensis,

Tollet, book 4, chapter 44. Nevertheless, it is probable that others hold the contrary opinion, as Sanch. and Layman state in the aforementioned chapter.

[*Latin ed. p. 251*]

It is a weighty question whether there is a smallness of matter in the transgression of a promissory oath, so that one who promises to give something small, having a true intention of fulfilling it when swearing, but afterwards does not fulfill it, commits only a venial sin. The first opinion, which is highly probable, denies this. This is held by Cajetan, 2-2, q. 89, art. 7, dub. 1; Tollet, book 4, chapter 22; Lessius, chapter 42, note 23; Bonaventure, volume 2, discourse 4, question 1, page 14, note 2; and also by Valois, Regis, Medina, Candida, etc., as found in Salm, treatise 17, chapter 2, note 52. The reason is that the oath is already violated at that point, and in that violation, there is no smallness of matter. This also seems to be the opinion of St. Thomas, 2-2, q. 89, art. 7, ad 3, where he says that if someone is compelled unwillingly to promise something under oath, although he may be able to reclaim what he has paid in court afterwards, he is nevertheless obligated to fulfill the promise in the meantime: because he ought to endure a temporal loss rather than violate an oath. The second opinion, which is no less probable, and perhaps even more probable, affirms this, and it is held by Suarez, *De Religione*, book 3, on oaths, chapter 16, note 9; Soto, *De Justitia*, book 8, question 1, article 7, division 1; Azorín, book 5, chapter 27, question 2; Castrén, treatise 14, discourse 1, page 6, note 8; St. Antoninus, part 2, title 10, chapter 4, section 1; Navar, Manes, chapter 12, note 10; Silvestrini, *De Juramentis*, book 4, question 1; Layman, book 4, treatise 3, chapter 14, note 6; and Salm, book *de Edictis*, chapter 2, note 53, along with Aragó, Sanchin, John of St. Thomas, Rodriguez, Trullado, etc.

[*Latin ed. p. 252*]

The reason is this: in a promissory oath, God is not properly adduced as a witness (for otherwise, perjury would be committed, even if the promise is subsequently not fulfilled for a just cause), but rather as providing authority to the obligation that arises from the promise made before God, as if someone were to promise something before a prince, intending to strengthen his promise by the authority of that prince. Therefore, they say that when the one who made the promise subsequently does not fulfill what he promised, he does not sin by perjury; for perjury is committed only when God is invoked as a witness to falsehood; but falsehood is absent when the one who swears has the will to fulfill the promise. To fail to fulfill a promise, however, is not falsehood, but rather a breach of faith, and somewhat more serious because of the irreverence that is shown to God, before whom the promise was made; but when the thing promised is

not serious, such a breach of faith does not amount to a grave fault. Thus, also, they say in Psalm [likely referring to a specific passage in a work by Salmeron], chapter 2, paragraph 88, with St. Antoninus, Navar, Castres, and others mentioned above, that if someone swears to keep a secret and then does not keep it, he does not sin gravely, unless he reveals it to the manifest detriment of a neighbor or the community. 3. It is certain that if, from what you swore, you fail to observe only a small thing, it is not a grave matter: for example, if you swore that you would not...

[*Latin ed. p. 253*]

"One does not sin mortally by drinking a little wine: St. Augustine, Book I, Chapter 4, Paragraph 12, Number 21: because in such a case, the smallness of the matter excuses [the action]. And thus, those are excused who swear to observe the statutes of a certain chapter, college, university, etc., if they subsequently violate a small statute. And the same applies to sworn notaries and other ministers of justice; as also to one who, having sworn to give another a certain sum, only deducts a small amount. Navarrus, Suarez, St. Augustine, Layman, Bona, page 13, paragraph 174, paragraph 4. One is probably obligated by a promissory oath, even if it was extorted from you through injury and fear: as if, forgetting the ambiguity of the words, you swore to give money to robbers, or interest to an usurer. Becchius, Book 2, Part 2, Question 82, etc. However, Azorinus, Book 1, Chapter 1, Paragraph 21, Question 13, argues differently in matters of marriage; because a marriage coerced by fear is null in a constant man; hence, a sworn oath regarding such a marriage seems to be relaxed by law itself. Cajetan, on Perjury; Suarez, Chapter 9; St. Augustine; Bona, page 9, paragraph 1. The question is whether a sworn oath, extorted by fear, obliges in conscience. It is said that it obliges in conscience, because in the external forum, where it is presumed that the intention to swear was not present, such an oath certainly does not obligate, according to the canon 'Verum, de juramento'. Regarding the internal forum, the first opinion is that it does not obligate, following Azorinus."

[*Latin ed. p. 254*]

St. Antoninus, Silvestri, Lopus, Anglerius, Panormitanus, et alii, apud Sanchium de Matrimonio, lib. 4, cap. 20, n. 3, qui eam [opinione] probabilem vocant, ex authentico Sacramenti, cap. Si adversus, ubi dicitur ea talia juramenta nullius momenti habenda. Hinc dicunt quod promissio sic jurata vel irrita est vel rescindibilis a metu facto. Secunda tamen sententia longe probabilior, quam tenet S. Thomas, 2-2, quaest. 89, art. 7, ad 3, Salmeronius de Contractibus, cap. 1, n. 26, cum Bonaventure, Soto, Lessius, Sanchius, Suarez, item Elbingius, n. 57 (qui vocat "communissimum"), et Viva de Jure, quaest. 7, disp. 4, n. 7 (qui vocat "commune"), dicunt tale juramentum obligare. Ratio, quia tenemur efficere ut verum sit quod juramus, ne

Deum testem falsi faciamus. Ideo, ex cap. Cum contingat, de jurejurando, in 6, et aliis ut infra, regula est quodlibet juramentum servandum esse quod sine peccato impleri potest. Respondetur autem authenticam citatam non receptam vel expresse revocatam fuisse a cap. 8 et 15 de jurejurando. Notandum autem quod metum passus tempore quo ad implentationem ex vi juramenti tenetur, potest illius relaxationem petere ab episcopo vel a quocumque qui possit juramenta commutare, ut Salmeronius, l. cit., n. 65, cum Lugard, Villalobos et Ledo. Et si iam solverit promissum, potest in judicio repetere vel occulte sibi compensare, ut Viva, l. cit., V de Contractibus, n. 177, vide. Quæstio 2.

[*Latin ed. p. 255*]

175. "Furthermore, one is also bound by an oath, even if it was extorted by error or deceit, provided that the deceit or error pertains only to accidental circumstances of little importance; for if it pertains to the substance, for example, if one swears to give another a ring, believing it to be made of iron when it is actually made of gold, or to circumstances of great importance, which, had one known them, one would not have sworn, one is not bound. See Sanch., book 3, chapter 11, paragraph 11; Suar., etc. (This doctrine concerning accidental qualities is considered probable by Salm. de contract., chapter 1, paragraph 21; but the opposite opinion is considered more probable. However, see paragraph 18, see *Sed dubium*, and concerning vows, see this book, 3, paragraph 198, see *Certum est*. And paragraph 225.)"

176. "It does not create any obligation if one swears to something bad, or vain, or useless, or (as Cajetan holds) indifferent, which is neither suitable by its nature nor by its circumstances; because an oath cannot be a bond of iniquity or of vain and idle things, to which God does not wish men to be bound. See Bonaventure and others, *Communia*. Note from Layman, chapter 6, that an oath does not become valid, even if such a thing, which was illicit and vain at the time, later, with changed circumstances, becomes honorable, since, according to rule 18 of the *Juris pontificalis* in VI, that which does not subsist at the beginning is not strengthened by the passage of time. (With Salm., chapter 1, from paragraph 55. Hence, add also Elbing, paragraph 60, Paleari, and Tarabotti, that if the oath is concerning the preservation of something..."

[*Latin ed. p. 256*]

"A prohibition contained in a law is not valid; even if the law prohibits something under penalty; otherwise, if it pertains to something permitted by the law." 177. "An oath given in favor of a third party can always be fulfilled without sin, and its fulfillment is valid, even if it is contrary to evangelical counsel. Salm. c. 2, n. 69, with Pal., Less., Sanch., Suar., etc.; and even if the promise made is legally invalid to the detriment of an unjust

creditor, such as a promise to pay interest, as stated in c. Debitores, de jurejur. And Sanch. asserts that this is certain among all, l. 3, c. 11, n. 3. Or, a promise made to a prostitute, even if such an oath is illicit, as Mol., Suar., Caj., Sanch., with Salm., state concerning oaths, cap. 2, n. 69. Understand this if the prostitute has already performed her service; otherwise, if she has not. Spor. c. 1, n. 55; Laym. c. 6, n. 2; Elb. n. 88. However, it must be said differently if the promise is legally invalid; because it would be contrary to the common good. The reason is that in such a case, the fulfillment itself would be illicit. Therefore, an oath extorted by fear concerning profession, marriage, betrothal, or the renunciation of ecclesiastical jurisdiction, is not binding if the person taking the oath is a cleric; nor is an oath concerning a donation made by a cleric or a soldier to a concubine. Thus, Salm. de contr. c. 1, n. 67, from c. Diligenti, de foro compet., with Bus. n. 174. It is questioned, when a contract is legally invalid in favor only of those making the promise..."

[*Latin ed. p. 257*]

"Which oath then strengthens the contract, so that the promisor acquires a right of justice from it? Azorius, Sanchez, and others affirm this. But it is more probable that Elbing, number 61, and Spotorius, chapter 1, number 53, deny it, along with Tamburrini, Potthast, Pichardi, etc. The reason is that an oath does not in any way have the power to establish such a contract: not by itself, because it only obligates by the force of religion; not by positive law, for although, according to chapter 28 of the treatise on oaths, such contracts must be observed because of the oath, nowhere is it held that they must be observed out of justice; and therefore, this obligation does not pass to the heirs of the one who swore the oath; and the one who swore the oath is absolved, upon the release of the oath. See Elbing, number 64, 7th point. Nor are you obligated to fulfill [an oath] if you swore something contrary to evangelical counsel: such as not entering religion, or not giving alms, etc. Mollerus, Sanchez, Layman, book 4, part 3, chapter 6. And although you may have sinned by swearing such an oath, you do not sin by not fulfilling it. Cajetan, on Perjury. (Thus Salmeron, chapter 2, number 58. Unless the oath is made in favor of a third party, as Lessius, Sanchez, Suarez, Palotti, etc., affirm, as will be seen above, and similarly Busenbaum, shortly below.)"

"8th point: You must fulfill [the oath] exactly, and it cannot be changed into some better work, such as, for example, entering religion, if you swore something for the benefit or advantage of some person or persons; provided that it is honest and without sin to fulfill it."

[*Latin ed. p. 258*]

"He may do so. For example, a student who has sworn to serve a prince or this or that church, cannot enter religion without a dispensation. However, if you swore to lead Titius, in that case you can, having abandoned

that, enter religion; because an oath takes on the nature of the act to which it is attached; but to the promise of marriage, this tacit condition is inherent: unless I enter religion. See Laym. c. 6; Bon. d. 4. q. 1. p. 3. n. 178. Question 1st: Does an oath not to play obligate one to abstain even from a licit and moderate game? Answer: If the oath is made not to play in general, all agree that it does not obligate one to abstain from an honest and moderate game. See Salm. c. 2. n. 95. It is doubtful whether, if an oath has been expressly and specifically made to abstain even from a licit and moderate game, it obligates one. Dic., Nav., Rodr. and Bass. deny this, according to Salm. n. 94, because such a game pertains to the virtue of *eutrapelia*. But it must be affirmed with Salm. n. 96, Tamb., Pal., Bon., Sanch. and the common opinion, because it is an act of greater virtue to abstain even from some virtuous act for the sake of greater perfection. Therefore, if the one swearing expressly intends a greater good in abstaining from games, for example, to dedicate himself to God, to mortify himself, etc., he is bound to fulfill it; otherwise, if he has not sworn such a thing. See Salm. n. 95 and 100."

[*Latin ed. p. 259*]

Finally, in this matter, a small amount of material can be legitimately given, which must be measured according to the purpose intended by the one making the oath. Salm. n. 98. It is also permissible for the one making the oath to give money to another to play, and to observe and even assist him, because this is not properly considered playing. Sanch. l. 3. dec. c. 18. n. 4., Bon. t. 2. d. 4. qu. 1. p. 16. n. 5., Pal. tr. 16. d. 2. p. 7. n. 5. et Salm. n. 99. cum Cand., Trall., Fag. etc. 179. Quær. 2. Whether an oath made against a previous oath is binding. A distinction must be made: if the oath is opposed to another in the very act of swearing, for example, if you swear not to swear again, and then afterwards swear, for instance, to fast, then you are bound by the oath concerning fasting; because, according to the oath, it is about a licit matter, even though you have sinned by swearing. Conversely, the second oath is not binding if it is opposed to the first in the matter sworn; because then it would be about an illicit matter: hence, if you swore to marry Caia (indeed, even if you simply promised, as Sanch. teaches in *de matrim.* l. 1. d. 50. n. 2.), and afterwards you swear to marry Titus, then the second oath is not binding; even if afterwards Caia remits the promise, according to the rule: "That which does not subsist from the beginning is not confirmed by the passage of time." *De reg. juris* in VI. Thus, Croix l. 3. p. 1. n. 323. cum Sanch., Pal., Tamb. et Salm. c. 1. n. 102. et 103. cum Suar. etc. However, Croix notes there, with Sanch., Tamb. and the commentary, that if a subsequent contract...

[*Latin ed. p. 260*]

The oath, even if illicit, is valid, provided that it is fulfilled; for by the oath, an act is not rendered invalid which, apart from the oath, could have

been validly performed. Whether a vow is valid against another vow, see below, concerning vows, number 210. Note. 160. "Response. 2.° A promissory oath has the same condition and must be explained in the same way as a promise or intention to which it is attached. The reason is that the accessory follows the principal; therefore, when the promise itself is not binding, neither is the oath attached to it. Less. l. 2. c. 42. d. 2., Bon. d. 4. q. 1. p. 6., Trull. l. 2. c. 1. d. 17." Therefore, it is resolved: 1.° Titius, who, under oath, promised marriage to Berta, a wealthy, virgin, woman of good reputation, etc., is not bound to keep the oath, after Berta has fallen into poverty, illness, fornication, or infamy; because the promise itself is not binding in that case. (And this is stated in chapter 25 concerning legal oaths.) 2.° He who, for the sake of politeness, swore not to sit, drink, or enter a house before another, does not sin against the oath if he is compelled by another to sit, drink, or enter first; either because that promise or intention has an implied condition attached to it—unless I am compelled—which, when removed, renders it not binding, and consequently, neither does the oath; or because he is excused from it by..."

[*Latin ed. p. 261*]

"Yielding to the other party his right. Bon. l. cit., Sanch., Less., Trull. ». 3. He who has sworn to observe the decrees and rules or statutes of some congregation, university, or chapter, is only bound to observe those which are in force and to the extent that they are in use or are observed by the majority of the chapter; unless, however, it is established that the intention of the one swearing was otherwise, or that he wished to bind himself to those things independently of the statutes. The reason is clear, because the promise itself does not otherwise obligate. Trull. l. cit., Az., Less., Dian. part. n. tr. 6. r. 39. (See the aforementioned note, no. 181.). In every promissory oath, by a fiction of law, the following conditions are tacitly understood. 1.º If I am able; because no one is considered to have obligated himself to an impossible thing, either physically or morally, that is, with very great and unforeseen difficulty. Thus, Spor. c. 1. n. 77, Laym. c. 9. n. 4, Elb. n. 70. 2.º Saving the rights of superiors; from chap. 19 on the law of oaths. 3.º If the one to whom the promise is made accepts or does not remit; for this is the nature of a promise, which is followed by an oath. Elb. ibid. 4.º If the circumstances have not been notably changed. See note, no. 187. See: He is not bound. 5.º If the other party also keeps faith; understand: if the promise has been changed, chap. 75 on rules of oaths, in VI. 181. Question: How does an oath to observe the statutes of some college or congregation obligate?

[*Latin ed. p. 262*]

Attend to the four rules commonly given by Doctors on this point. 1st, That such an oath is understood to pertain to statutes that are to be ob-

served, and not to those that are not to be observed. *Psalm* [Book of Psalms], chapter 2, verse 72. 2nd, That the oath is understood to obligate under a grave or light penalty, or only to a penalty, or only under counsel, just as the statute obligates. *Elb.* [De Obligationibus Ecclesiasticis], number 91; *Salm.* [Tractatus de Juramentis], number 78, with Pal [Pallavicino], Sanch [Sanchez], Bon [Bonaventure], etc. 3rd, That such an oath does not obligate to statutes to which it does not obligate, nor because of impossibility, nor because of desuetude, nor because they are received by custom, even if the oath is given concerning a particular statute. *Salm.*, number 79, with Suar [Suarez], Bon, Sanch, Prad [Prado], etc. 4th, That it does not obligate, even if some statute is not observed by the majority of the community. *Salm.*, number 90, with Sa [Soto], Sanch, Az [Azorín], etc. From this, they infer: *Salm.*, number 83, with Sanch, Pal, Trull [Trithemius], etc., that officials who swear to observe the prescribed tax, do not sin in receiving something else, if the tax or stipend is insufficient. 182. The question arises: in what way does the oath obligate which doctors give in colleges by order? *S. Pii V.* [Decree of Pope Pius V], in the *motu proprio* of the year 1566. — Regarding the flock — not to visit the sick for more than three days, unless they are certified to have made their confession by a written statement from the confessor. They say: *Salm.*, chapter 2, verse 91, with Sanch, Caj [Cajetan], Prad, Trull, Leand [Leander], etc., that such an oath is...

[*Latin ed. p. 263*]

An oath does not bind, if it is not received in custom, as is testified by the fact that it is not received in Hispania (nor, indeed, is it received in Neapoli). Hence, they say there that a physician is only bound when he foresees a probable danger of death in the sick person, and at the same time, he probably foresees that he is in mortal danger, or that it is necessary for him to arrange his affairs in order to pay his debts, settle lawsuits, etc. Thus, Salm, ibid., no. 92, and P. Elb. de jur., no. 91. In the Neapolitan Dices, however, a case has been established by the latest synod with excommunication; for previously, it was without excommunication: there, in no. 4, it is said: "Physicians who have not taken care of the sick whom they visit, after three days from the visit, so that the aforementioned sick may confess their sins to a proper confessor, or otherwise have not abandoned them, according to the terms of the Constitutions of St. Pius V and Innocent XI, etc." But, as I said, such a constitution is not received in custom in Neapoli, as several learned men have assured me, when the illness is slight; but when it is dangerous, the constitution and the reservation are in force. Hence, Mazz., de sacr. poen., 9.3, p. 387, and 550, speaking of the aforementioned reserved case, says that the Constitution of St. Pius is tempered by custom, so that it should be understood only in the case of dangerous illnesses. However, the physician would be excused if he warned the sick person, or if he was

certain that the warning was not heeded.

[*Latin ed. p. 264*]

It will be beneficial. It is certainly said, for one is bound to warn. Thus, Elab. d. n. 89, Sanch., Bon., Tamb. etc. Mazz. says the same thing there, adding that the testimony of family members or of the infirm person themselves is sufficient regarding the confession of sins, if they are worthy of belief. But I say that, in this matter, one should readily consider domestic servants as potentially suspect. See more on this point in *De Sacram. Poenitentia* n. 664, and in *Praxi Confessariorum* n. 53, 183.

4º He who has sworn to keep a secret does not sin against his oath by revealing it, when he cannot keep it hidden without causing serious harm to himself or to another; because the promise of secrecy does not seem to obligate, unless with this condition: if it does not cause harm. – Silv., Bon., Sanch., Trull. l. c. (Regarding the revealing of a secret, see what is said in l. 3, n. 971. See this.)

However, oaths regarding the keeping of secrets, given in congregations concerning elections or other matters, bind either heavily or lightly, according to the harm that they can cause. Thus, Elb. n. 90, with Hepno; because the obligation of the oath follows the obligation of the secret. The same is said by Spor. tr. 3, c. r. n. 42, Croix lib. 3, p. 1, n. 329, etc., regarding the oath to keep secret the art of making a certain medicine. Indeed, despite the oath, one is bound by charity to reveal it, if otherwise someone would suffer a grave danger of death, since the oath is not a bond of iniquity. Thus, Croix with S. Th., Suar. etc.

[*Latin ed. p. 265*]

5. He who has sworn before a judge to speak what he knows, is not bound to reveal secrets. The reason is clear. (Lessius, Bonaventure, and the Council of Trent cite this).

6. He who has sworn to pay a debt within a month, is not bound to pay it within that time by virtue of the oath, if the creditor extends the term for payment: because when the creditor yields his right, the obligation of the promise, and consequently the oath, ceases. (Azorín, Bonaventure, and the Council of Trent, in the cited place, number 18).

184. Question 1: Whether he who promises a concubine, under oath, not to acknowledge her, is bound by that promise. The negative opinion is held. (Díaz, with Fagius). Because the purpose of such a promise was wicked, namely, to preserve friendship, and because such an oath would provide an opportunity to remain in sin. However, Salmanticensis, chapter 2, with Sanchez and Prados, argues more plausibly, because, according to the general rule, an oath must always be kept, and it can be kept without sin: that opportunity arises by accident.

185. Question 2: Whether a promise made prodigally, under oath, is

binding. Some hold the affirmative opinion (apud Salmanticensis, ibid., number 71). But it is more probable that it is not binding (Salmanticensis, in the same place, with Soto, Suarez, and the Council of Trent, etc.). Because such a promise is at least mildly evil, and therefore, since the oath is not a bond of iniquity, it does not obligate according to the rule of law in the Sixth Commandment. An oath given for a loan is not binding against good morals. (Salmanticensis, number 78). See also what is said about marriage, book 6, number 851. See also: "But if..."

[*Latin ed. p. 266*]

186. Question 3: Whether one who promised to return to prison under oath is bound to do so, given a probable fear of death or a very grave, unjust harm. The first opinion denies this; because it would be an act inherently evil to offer oneself to death. Thus, Navarrus, Manual, chapter 12, paragraph 18, and Vasquez, Navarrus, Pontius, Covarrubias, Tamburrino, Regius, apud Salmeron, chapter 2, paragraph 74. The second opinion, which is much more probable, affirms this; because, once a promise is made, returning [to prison] would be an act of virtue. Thus, Tollet, book 4, chapter 22, paragraph 2, Suarez, book 2, chapter 10, paragraphs 14 and 15, Lessius, book 2, chapter 42, paragraph 28, and Salmeron, paragraph 75. (Although the first opinion is called probable) with Bonaventure, Sanci, Lessius, Suarez, Layman, Tollet, etc. Parents or masters who swear to punish their children or servants rarely sin if they do not fulfill the oath, either because the offenders have already been reformed or have promised to reform, or because the oath was concerning a useless matter, or rather, an inordinate act of vengeance. Thus, Layman, paragraph 9, chapter 14, Anacleto, d. 2, paragraph 22, and Elburg, paragraph 87, with Gobinus and others, quite commonly; and Elburg adds that such oaths are usually made not with the intention of swearing, but only to terrify. See the following paragraphs, numbers 1 to 4.

[*Latin ed. p. 267*]

DOUBT FROM SESTRI. IN WHAT CASES MAY ONE BE EXCUSED FROM FULFILLING AN OBLIGATION ASSUMED IN A PROMISSORY OATH? 187. Does a change in circumstances excuse one? 188. Does the cessation of the final cause excuse one? 187. "RESPONSE. Such cases, besides those gathered from Tol and Caj., are enumerated as follows: 1.º If something that was good at the time of the oath, due to subsequent circumstances, becomes illicit, or vain, or an impediment to a greater good, or if it is better to omit it than to fulfill it. Sanch. c. 14. (with Salm. c. 2, n. 65). 2.º If one changes the oath to some openly better and more pleasing work to God; for each one can do this, as Tol. c. 13 states. However, always make an exception if one has sworn something for the benefit of another; for God does not wish to be defrauded. 3.º If the state of affairs changes notably:

as, for example, if one swore to punish someone with just punishment, but that person then begs for forgiveness and does penance, one can forgive him without perjury; because the oath obligated, provided that the same state remained in which he did not repent. Laym. c. 9. (See below, "One is not bound"). 4.º If the thing sworn to has become useless for the intended purpose, especially if it is more destructive of that purpose: for example, if, for the sake of correction..."

[*Latin ed. p. 268*]

The son who is impenitent should be corrected more severely than reformed, or the family should be disrupted, enduring quarrels with his wife, and thus failing to correct him. *Reg. L. 18. c. 56., Bon. L. cit. p. 14.* (Hence, if the punishment threatened by the father does not sufficiently contribute to correction, he is not obligated to carry it out; at least, not with great severity. *Salm. n. 63. cum Soto et Sanch.*) (He is excused from fulfilling an oath which he makes threateningly out of anger or not seriously, as is often the case with children. *Salm. n. 61. 63. cum Bon. et Cæj. V. dicta n. 186. in fine*.) 5.º If those conditions are present which, by nature and the teachings of the Doctors, are tacitly understood in any promissory oath. Such conditions are: as Layman says (sup. c. 9.): 1.º if I am able; 2.º saving the right of a superior; 3.º unless the matter is notably aggravated (What if a circumstance not foreseen arises? V. dicta n. 180. v. In omni); 4.º unless the obligation is removed. Concerning which, the following doubt. One is not obligated to fulfill an oath when a notable change arises, for example, the danger of death, infamy, or another grave harm: because in such a case, he is not considered to have intended to obligate himself, since, through the change, the thing is different than what was promised; but in a doubt as to whether the change is notable, he is obligated. *Pal. tr. 15. d. 1. p. 20. n. 4., Sanch. dec. lib. 4. c. 2. n. 34. et Salm. de jur. c. 3. n. 20. cum Trull., Leand. etc. V. de voto n. 225.*

[*Latin ed. p. 269*]

But it is doubtful whether that change, even if not notable, is sufficient to release him from the obligation, since he had not yet uttered the oath. The first opinion, based on *Summa Theologica*, 4th part, distinct. 48, question 1, article 3, ad 1, states as follows: "That which liberates from the obligation of a vow or oath is that which, if known from the beginning, would have prevented it from being made." The reason is that the intention to bind oneself is either lacking or is understood in such a way. Thus, Navarrus, *Manual*, chapter 18, paragraph 7; Sixtus V, *De Voto*, 2nd question, 17th section, *in fine*; Molinos, *De Iustitia*, book 2, chapter 272, columns 2 and 7; also, Saint Antoninus, Henry, etc., apud Salmeron, book 3, chapter 3, paragraph 21. The second opinion holds that it is not sufficient; because the obligation does not arise from a promise that would not have been made in

the future, but from the promise that has already been made. Thus, Suarez, book 4, chapter 9, paragraph 8; Sanchez, *Decreta*, book 4, chapter 2, paragraph 22; Palotti, *Seniora*, 15th disputation, 1st part, page 20, paragraph 3; and Salmeron, ibid., paragraph 22, with Soto, Cajetan, Valois, etc. However, they rightly say that the probability of the first opinion cannot be denied. Indeed, Salmeron himself, book 1, paragraph 152, considers that change to be a notable one, which, if known from the beginning, would have prevented the person from making the promise; which certainly agrees with the first opinion. See *De Voto*, paragraphs 226 and 188. Furthermore, the obligation of an oath or vow ceases if the final cause of that oath or vow ceases: for example, you promised alms to a poor person, but afterwards that person becomes wealthy; you promised not to enter such a League. *Theologia Moralis*, Volume III.

[*Latin ed. p. 270*]

"One may leave the house because of danger, but that danger ceases; one promised a pilgrimage for the father's health, but he dies, and similar cases. Thus, Sanch. l. 4. c. 2. n. 42., Suar. l. 4. de voto c. 18. n. 3., Bon. d. 4. q. 2. p. 3. §. 2. n. 10., Pal. tr. 15. d. 9. p. 20. n. 1. et Salm. c. 3. n. 16. with Prado, Trull., Tamb. etc. Conversely, if only the impulsive cause ceases. Ibid., DUBIUM SEPTIMUM. HOW IS THE OBLIGATION OF AN OATH REMOVED BY IRROTATION, DISPENSATION, COMMUTATION, AND REMISSION? 189. Who can irrogate oaths? And who can dispense? 190. Can the one who dispenses, also dispense in oaths? 191. Concerning commutation and relaxation of an oath. 192. What if the oath was made in favor of a third party? 193. Can it be remitted by the third party himself? Appendix concerning adjuration, and especially concerning the adjuration of demons. 189. "RESPONSE. Concerning this, from the conditions already established and the authority of superiors over their own and their subjects' vows, Laym. here c. 11. and others, state the following." 1.º "Concerning irrogation, any superior, husband, or lord, can irrogate an oath, and in what way can they irrogate the vows of others? Sanch. c."

[*Latin ed. p. 271*]

69. n. 7; Suar., Az., Fill., loc. 25, cap. 9, p. 17, dub. 6; V., cap. seq., n. 227. "2.º Promises made under oath, even those made for the benefit of another, can also annul faith, whenever it has been granted to those making the promise or contract to invalidate it. 3.º Regarding dispensation, whoever has ordinary or delegated power, or a privilege, to grant dispensation in matters of vows, can grant dispensation in them, even if they have been sworn." 190. "The question here is whether someone who has delegated power to grant dispensation in matters of vows can also grant dispensation in oaths. The first, probable opinion is that this is not the case; because the bond of a vow and an oath is different, and therefore, according to the style

of the court, the power regarding oaths is specifically granted. Thus, Less., loc. 2, cap. 42, n. 6, and Sanch., Bon., Az., and Led., apud Salm., de juram., cap. 3, n. 3. The second opinion, which is no less probable, affirms that this is possible; because, although oaths given only to God are a different kind of bond from vows, nevertheless, in order to grant dispensation, vows are considered equivalent to oaths, as is stated in *Tantum*, *Sff.*, de servo corrupto, where it is said: 'What is stipulated in one of equals is considered stipulated in the other.' However, that special concession regarding oaths, according to the style of the court, is made for greater caution. Thus, Salm., d. n. 4, with Caj., Pont., Suar., Pal., Trull., Dian., Prad., Arag., etc. But, notwithstanding this, the first, negative opinion remains."

[*Latin ed. p. 272*]

It must be held absolutely; for the obligation of an oath, once contracted, cannot be removed by a dispensation that is only probably valid, since it is certain and possesses force. Otherwise, it seems to be said concerning oaths made to a man, when the common good is involved; indeed, such oaths are null by themselves. See above, numbers 177 and 191.

4. Regarding commutation, the same reasoning applies as with a dispensation.

5. As for remission or relaxation, an oath made in favor of a person cannot be relaxed, unless by him to whom it was made, or to whom the person and the matter promised are subject.

6. And he indeed can remit it, even if such a favor was sworn to him for the sake of God; for example, if someone swore by God to take care of a poor person, he can relax that oath himself, as Navarrus and others argue against Soto and Silv. Because, although the oath is primarily made for the sake of God, since the execution is for the benefit of a person, it also depends on the will of the person.

7. Whether civil authority can also relax the oaths of its subjects in temporal matters, when there is a just cause, for example, because they were extorted by fear or through some other injustice, is disputed. Some deny it, while others argue in favor of it, according to Layman. It is probable that Sanchez, 7.3, chapter 12, with Suarez, teaches that it cannot be relaxed.

[*Latin ed. p. 273*]

Directly, as ecclesiastical power, when it grants a dispensation, but only indirectly, for example, through the matter itself or by fulfilling the role of the one to whom the oath was sworn and who ought to remit [the obligation]; more concerning matters pertaining to the external forum regarding oaths may be found in Layman, *supra*, chapter 11, and Bonaventure, *loco citato*, 9, 192. For greater clarity, it should be said that, firstly, if a promise made in favor of a person, and confirmed by an oath, has not yet been accepted, there is no obligation to fulfill it, and it can be revoked;

because the oath is then accessory and follows the nature of the promise. Conversely, if the promise was primarily made to God. This is certain. See Salm, *de juram.*, chapter 2, paragraph 56, with Suarez, Lessius, and more extensively, *de contractibus*, chapter 4, paragraph 70. Secondly, it should be said that if such a promise has been accepted by a third party to whom it was made, then it cannot be relaxed without the consent of that third party, even by the Pope. This is also a common opinion, found in Layman, *de juram.*, chapter 11, paragraph 15, with St. Thomas, *IIa IIae*, quaestio 80, article 9, ad 3, and Tamburrini, *locus citatus*, chapter 7, section 3, paragraph 3, number 3, Salm, chapter 2, paragraph 68, and Croix, *locus citatus*, page 1, heading 358. And this is so, even if the oath was primarily made in honor of God, as Croix states *ibidem*, with Sanchez, Suarez, Lessius, Lugo, Diana, Moya, etc., because by acceptance, the third party has always and necessarily acquired a right. But concerning this oath primarily made to God, a great question arises, about which see what is to be said in chapter 3, paragraph 255, concerning vows.

[*Latin ed. p. 274*]

However, the second limitation is soon extended in three cases. 1. If the one swearing is subordinate, and the oath pertains to matters subject to the authority of superiors, as taught by St. Thomas [Summa Theologica, cited]. Therefore, the pontiff can annul all oaths concerning benefices, ecclesiastical offices, etc. Parents can also annul the oaths of minors, but not those of adults concerning their own property; guardians of orphans, superiors of religious, husbands concerning dowry property, and lords concerning their serfs. See all of this in Salm., cap. 3, no. 4, with Bus., no. 2. 2. If the oath could not be kept without causing common harm, as in the case of an oath not to denounce, not to accuse, etc., or concerning a contract forbidden by law, for example, to pay a penalty if one withdraws from a betrothal; which is prohibited in cap. Gemma, on betrothals (Whether also to pay a loss from a prohibited game, as Salm. says, see what is said about games, treatise on contracts, title 13). Such oaths do not truly require dispensation, since they are null in themselves, according to the statements in no. 177, see "Otherwise." However, if they were valid, they could be relaxed by the Church. Salm., ibid., no. 6, with Sanch., Pal., and Gutt. Furthermore, acting in the name of the Church are not only the pontiff, but also bishops, capitulars when their sees are vacant, and others who hold episcopal jurisdiction, as Salm. states in nos. 7 and 8, and also confessors who have been delegated the authority.

[*Latin ed. p. 275*]

Having the power to dispense from vows, those who can also relax such oaths, as Bus. n. 3 and Salm. n. 9, with Rodr. and Led. Lim. 3, or if the oath was extorted by deceit or fear: then it can also be relaxed by the same au-

thorities, as mentioned above, as punishment for the extortion, as is certain among all; even if the oath was extorted by a third party, unknown to the principal: Salm. n. 7, with Suar., Sanch., Pal., Mol., Arag. Indeed, this is the case: even if the promise is not improper, for example, regarding the payment of a true debt, but the oath itself was unjustly extorted; and even if the oath is extorted through slight fear, at least internally, yet Salm. n. 8, with Sanch., Swar., and Pal., following *e. Scilicet*, and *e. Accepta, de rest. spol.*, where only a completely spontaneous oath cannot be relaxed.

193. It is certain that an oath made in favor of a third party can freely be remitted by that third party, without ecclesiastical dispensation, as all teach, with D. Th. 2. 2. q. 8g. art. 9, ad 2. But the question is whether an oath made in favor of a third party ceases upon the remission by that third party, even if the promise was primarily made to God. St. Thomas denies this *ib.*, unless a condition is added, namely – if it seems fitting to the one to whom the promise is made –; and the same is held by Salm. c. 3, n. 10, generally speaking, with Sot., Silv., Sanch., Bon., Pal., etc. Conversely, Bus. here n. 6, with...

[*Latin ed. p. 276*]

Nav. and Croix, book 3, page 1, number 358: It is probable that, according to Gobinus and Tamburrini, the obligation ceases. The reason is that, although the promise was made to God, it was nevertheless always made depending on the will of the person to whom it was sworn, namely, if that person does not retract the excuse. And this is also followed by Salm. number 14, with Saneh, Pal, Trull, Prad, Fag, Leand, etc., against Scot, Silv, etc., always and in such a way that, although the oath is primarily made in honor of God, the entire promise yields in favor of the party: for example, if someone, out of piety, swears to give a chalice to this church, alms to this poor person, or to enter this religious order. As for whether a perpetual oath or vow, which is sometimes made in certain congregations, can be relaxed or dispensed with by bishops, without the consent of the congregation, see what is said in number 255 below.

APPENDIX ON ADJURATION.

An *adjuratio* is an invocation of God, or of sacred things, or of saints, to induce someone to do or to refrain from doing something. Thus, St. Thomas [Summa Theologica] 2-2, question 90, article 1. Another kind is a solemn *adjuratio*, which is made by ministers and in the manner established by the Church; another is *privata*, without.

[*Latin ed. p. 277*]

Such solemnities. Another pertains to supplication, as was that of the prince of priests: "I adjure thee, by the living God, that thou tell us if thou

art Christ, etc." (Matthew 26). Another pertains to command, which belongs only to superiors with regard to their subjects, and to exorcists with regard to demons.

II. For an adjuration to be licit, three things are required, as in an oath, namely: 1st, Truth, that is, that the one adjuring truly intends to obtain what is requested, and that the reason for which he requests it is true; lacking truth, it is rarely more than venial; indeed, if a feigned pauper asks for alms by God, as say Sanchez, Decree 1, title 2, chapter 42, number 5; Spotorius, on the Second Part, chapter 1, number 163; and Elbetius, Confutation, 6, number 153. 2nd, Justice, the lack of which certainly leads to grave sin when one requests something gravely evil, according to the common opinion of the Doctors. What if one requests something lightly evil? Some hold it to be venial (Salm. on the Second Part, chapter 1, number 4; Spotorius, number 165, with Suarez, Bona, Sanchez, and Tabula), but Elbetius says it is mortal, number 97, because it seems to induce irreverence in the other, leading him to something evil through divine authority. See the aforementioned, number 146, line 5. Venially. 3rd, Prudence, that is, due discretion, the lack of which certainly is not more than venial.

III. Only intellectual creatures can be directly adjured, such as men and demons. Indirectly, however, even irrational things can be adjured, such as salt, clouds, locusts, etc., by adjuring God.

[*Latin ed. p. 278*]

So that their use may not be helpful, or that demons, through them, may cease to do harm, as taught by St. Thomas [Aquinas], 2-2, q. 90, art. 3, along with others. IV. To all, indeed, it is permitted to adjure; but solemnly, only to those ministers of the Church who are appointed for this purpose, and with the express permission of the bishop. Thus, Salm. and others, from Luke 10:19: "Behold, I have given you power to tread on serpents and scorpions, and over all the power of the enemy: and nothing shall hurt you." And from Mark 16: "In my name, you shall cast out devils." V. Especially concerning the adjuration of demons, two things are particularly noteworthy. 1. That the adjuration should be imperative, and not deprecative. 2. That it should be done only to remove harm and vexation from the possessed, and not for vanity or curiosity; hence, the Doctors commonly say, with Salm., in the aforementioned work, chapter 1, n. 55, that one cannot be excused from a grave sin who has many useless conversations with a demon possessing someone. But the question arises: 1. Whether it is a mortal sin to ask a demon one or two curious things. Pal. affirms this, because then the exorcist seems to be asking in a deprecative manner, rather than in an imprecative manner. But it is more probable that it is only venial, if the adjuration is truly made in an imperative manner. Thus, Sanchez, dec., book 2, chapter 42, n. 25. Also, Caj., Suar., Nav., and Sot.,

commonly with Salm., n. 55 and 56.

[*Latin ed. p. 279*]

Question 2. Whether it is permissible for exorcists to question a demon. It is permissible to question it about all things that contribute to its expulsion. *Psalm* 51. with *Summa Theologica* and commentary. From this, they can inquire about the number and names of those who dwell within the possessed person, and for how long, as is found in the *Rituale Romano*. Also, the cause of its entry, and the sign of its departure, as the common councils permit, *Sanc* n. 28, *Psalm* with Palatine, Delrio, Trull, etc. However, it is not permissible to demand that the demon reveal a truth, as Elbing affirms in *Confutation* 6, n. 156, because (as he says) the ministers do not seem to have any power other than to question it about those things that pertain to its expulsion. But it is more probable, and the common opinion affirms, that it is permissible if it contributes to the glory of God. Thus, *Sanc* n. 24, and Cajetan, Soto, and others, with *Summa* n. 59. And this is expressly taught by St. Thomas in *Summa Theologica* 2-2, question 95, article 4, ad 1, where he says: "It is one thing to inquire of a demon about something that spontaneously arises; which, at times, is permissible for the benefit of others, especially when, by divine power, it can be compelled to speak the truth. And it is another thing to invoke the demon to acquire knowledge of hidden things from itself; which is certainly evil." What if the demon were to state that the cause of its entry was that the possessed person had been invalidly baptized?

[*Latin ed. p. 280*]

Should this person be rebaptized under this condition? On one hand, it seems to be denied, because no faith should be given to a demon; on the other hand, it seems to be affirmed, because the demon, by the force of the exorcism, is bound to reveal the truth. In this difficulty, it is reasonably held in question 6 that he should not be rebaptized, unless other valid conjectures exist concerning the invalidity of the baptism, namely, if the baptizer was a malefactor or heretic, or a very uninstructed woman, or a bitter enemy of the parents of the one being baptized, who said he wished to avenge himself, and similar things. However, the exorcist, in order that the possessed person may truly be freed, should diligently take care to observe the following: 1st, that he first explore whether he is truly possessed by a demon. 2nd, that he fortify himself with faith, trust, and charity, moreover with prayer and fasting, and especially with humility; otherwise, he will make little progress. However, it is said in question 7 that exorcism has its power, even if it is performed by one who is in sin. 3rd, that he encourage the possessed person to confession, trust, and prayer. 4th, that he use the exorcisms approved in the Church of *romana* or at least in his diocese. He should also use the invocation of the names of Jesus, Mary, and also

the sign of the cross, and the relics of the saints, or blessed water, the Lamb of God, etc. 5th, that he take care not to joke with the demon, but rather offer a few words; and that he not allow it to speak more, but command it to be silent. 6th, that he take care, as is noted.

[*Latin ed. p. 281*]

With the ritual, lest the demon, by the said words, incite the sorcerers, so that they may dissolve the evil. However, let the demon be commanded to say whether it is present because of evil, and to give or reveal the signs of the evil. 7. Regularly, let the exorcism be performed in the church, with the doors open, unless there is a fitting reason (as is said in the ritual) to perform it at home. 8. Let women, children, and idle men be excluded, whose little faith may hinder the expulsion. 9. Let the threat and the words by which the demon is observed to be more agitated be repeated many times, always increasing the punishment. Finally, let it be noted that there are no infallible signs of departure; however, probable signs are if, for a long time, the possessed is free from disturbances; also, the confession of the demons, a great vomiting of putrid things, or a very foul breath; also, loud cries that are heard there; also, if the possessed remains lying on the ground, as if dead, and similar things. However, it is not permissible to grant the demon what it asks, namely, that it invade another body of a man or beast, so that it may depart from the possessed, as it promises, as Elb. n. 167. states, with Bon., Tamb. and others, against Pal. etc. Commonly, the Doctors say that exorcisms have an infallible power to expel demons, as if by the work performed. Thus, Spor. de II. præc. n. 167., Sanch. d. c. 4t. n. 16., Pal. p. 4. n. 19., Elb. n. 160., and Salm. n. 17.

[*Latin ed. p. 282*]

And 22, concerning the Chapters, Decrees, and Councils of Constantinople, etc. It does not hinder that some exorcisms may not have effect; for, as Salmeron says, they always produce some effect, if not completely, at least imperfectly, by weakening the power of demons. See Delrio, who treats this matter extensively elsewhere.

CHAPTER III. ON THE VOW.

FIRST DOUBT. WHAT IS A VOW, AND IN HOW MANY WAYS IS IT MADE?

194. What is a vow?

195. In how many ways is a vow made?

194. ANSWER. 1. It is a promise made deliberately to God concerning a possible and better thing: *Summa Theologica*, 2-2, question 86. See Sanchez and Layman, 4, 4. From this it is clear that a vow is an act of latria,

which is due only to God. Therefore, when we vow something to the saints, it is understood that we are vowing it to God in honor of both the saints (as is the common understanding of the Church, Salmeron, on vows, chapter 1, number 29), just as we build temples and altars to God in their honor. Furthermore, from the individual parts of the given definition, many cases are resolved, which, in order to avoid confusion,

[*Latin ed. p. 283*]

"And let us consult memory; I shall propose the doubtful points separately." 195. Response 2. The vow is divided into absolute and conditional. The former is made without any condition, as: "I vow alms." The latter is made with a condition, so that, unless that condition is met, the obligation does not arise; as: "I vow alms, if I am restored to health," or (what is called a penal vow) "I vow to perform penance, if I do this..." 2. In solemn and simple. The former is accepted as such by the Church; and these are the two: the vow of chastity, which is attached to the higher orders, and the vow of religious profession. A simple vow is any other vow which does not have such solemnity. It should be known that a solemn vow renders the person legally incapable of contracts or actions contrary to the vow, such as marriage or the acquisition of property. See below, book 4, chapter 1, in the section on the religious state. A simple vow, for example, of chastity (except for that made in the Society of Jesus after the novitiate) or of entering a religious order, although it makes a contract, for example, of marriage, illicit, does not render it invalid. See below, book 6, on marriage. 3. In real and personal. The former is made with money or another external thing of estimable value, as a chalice, alms; the latter is made with some action or omission of an action by a person, as...

[*Latin ed. p. 284*]

The vow of fasting, of pilgrimage, or of abstinence from certain activities. Some add a combination of these: for example, to vow a pilgrimage along with the offering of something. V. Less. l. 2. c. 40. SECOND DOUBT. WHAT IS REQUIRED FOR A VOW: DELIBERATION AND INTENTION. 196. Deliberation required for a vow. 197. Concerning a vow made out of fear. 198. Concerning a vow made out of error. 199. Whether a simple intention is binding. 200. Whether an implicit promise suffices for a vow. 201. What kind of intention of the will is required for a vow. From this, further questions arise. And 1st, whether one is bound by a vow who positively refused to promise and to obligate himself; 2nd, who did not have the intention of fulfilling it; 3rd, who positively refused to obligate himself, knowing the obligation of the vow. Question 1st: What if it is a newborn? Question 2nd: What if someone wanted to promise, but positively refused to obligate himself? Question 3rd: What if someone doubts whether he wanted to obligate himself, or whether he knew the obligation of the vow?

What if he doubts whether he made a promise or a vow? 196. » R ESP. Since the obligation of a vow is the most serious, intention, deliberation, and perfect liberty are required, so that one freely and directly wills to promise, with the intention of obligating himself. Thus the Doctors commonly teach. Less., Bon. d. 4. q. 2. p. 1. ». Therefore, it is resolved: 1st, that age and the use of reason are necessary for making a vow.

[*Latin ed. p. 285*]

"It suffices that which is sufficient for a mortal sin, namely, a perfect human act, directly willed in itself. However, a solemn vow of religion is not valid before a certain age."

2. "A vow made with semi-complete awareness or deliberation is not binding; for example, from a sudden impulse of the mind, or by habit, or when the tongue precedes the mind, or from the heat of anger, which diminishes the use of reason. Azor., Sanch., Trull. lib. 2. c. 2. d. 1., where it is noted that it is not a sufficient indication that the aforementioned reason or deliberation was lacking, if the one who made the vow soon repents; also, an impulse of anger rarely, and almost never, impedes the use of reason. (Hence, it must be considered whether other circumstances are present. See Salm. c. 1. n. 11. He sins at least venially who makes vows of great importance with slight consideration: Salm. n. 13; although he is bound to them, n. 14.)"

3. "If the one who knows that he has made a vow doubts whether he did so with sufficient deliberation and use of reason, due to a lack of age; if he vowed before the age of seven, the vow is not binding, unless it is established that there was sufficient use of reason; because in such a case, the law does not presume it, and possession is considered as freedom. However, if he vowed after the age of seven, the vow is binding; because possession is considered as a vow, since the use of reason is presumed, unless the contrary is established. Finally, if he doubts whether he vowed before..."

[*Latin ed. p. 286*]

"After seven years, whether the vow is to be maintained, Sanch. and Pal. say yes, Diana says no, etc. (But Sanch. is more probable). However, in any doubt as to whether full deliberation was present, the vow is valid. Salm. c. 1, n. 147, with Suar., Sanch., Pal., etc. Also, in doubt as to whether the one making the vow emitted the vow compelled by fear, or whether the fear was grave. Salm. ibid., with Bon. and Trull. Conversely, in doubt as to whether the matter was honest or possible; because then the vow does not yet possess validity; ibid., with Pal., Sanch., and Suar. 4th. Vows made in drunkenness, even if foreseen and thus willed in the cause, are not valid, because they are not willed in themselves and directly; but good does not arise unless from a complete cause, although for sin, it is sufficient to be voluntary indirectly and in the cause. Laym. l. 4, t. 4, c. 1, n. 4, 197. 5th. Vows

made in fear, not induced precisely to extort the vow, are valid, because they are simply voluntary and deliberate. (As are also valid vows made from intrinsic fear or justly induced fear. Salm. c. 1, n. 161, from c. 1 and 2, de adult.) However, those made in fear unjustly induced to extort the vow are invalid, generally, not because they are not voluntary, but because either the law invalidates them, or God does not accept them, lest He give force to unjust coercion; and this, whether the fear..."

[*Latin ed. p. 287*]

Whether the vow be grave or light, it is valid, provided that it is formally made out of such fear. Suarez, *De voto*, book 1, chapter 8; Fulgentius, volume 26, chapter 1.

But the question is whether a vow made out of grave, unjust fear is invalid, at least according to ecclesiastical law. The first opinion denies this, as Suarez states in volume 3, *De religiosis*, book 6, chapter 14, number 6, and in volume 2, *De voto*, chapter 8, number 5; Silvestri, in *Metus*, section 8, at the end, and in *Votum*, volume 2, question 12; Pontius, book 7, chapter 19; Palearius, volume 3, treatise 15, part 1, page 8, number 13. And Palearius, Basilius, Silvestri, and Bonaventure, with Trullius, rightly call this opinion probable, as stated by Salmeron, chapter 1, number 63. However, this does not apply to a solemn vow made in a religious profession, which is certainly not invalid, according to the canon "Prælatum, De iis quæ vi, etc."

The second opinion, on the other hand, affirms this with probability, as Busenbaum and Sanchez state in book 4, chapter 3, number 11; Lessius, book 2, chapter 40, number 18; Azorinus, part 1, book 11, chapter 56, question 6; Navarrius, chapter 12, number 52; and Salmeron, number 164, with Trullius, Bonaventure, Vallius, Sotus, etc., from the chapter "Ad audientiam, De iis, quæ vi." Where it is said: "It must lack the strength of firmness that comes from fear." And from the chapter "Cum locum, De sponsis," where it is said: "If there is no consent where fear or coercion intervenes." However, this is excepted if the fear was justly caused, as stated in canons 1 and 2 *De adult.* See Salmeron, number 161.

As for whether a vow made out of slight, unjust fear is invalid, Busenbaum affirms this, along with Suarez and Fulgentius; also Navarrius and others, as stated by Sanchez.

[*Latin ed. p. 288*]

decret. l. 4, c. 3, n. 24. The reason (as they say) is that fear irritates a vow because it takes away the full consent of freedom; therefore, even a slight fear will irritate it when it takes away that same freedom and is the cause for the vow to be made. And this opinion is called probable by Sanchez. But a contrary opinion is more probable, which Sanchez holds, n. 24, along with Soto, Valen, Sahagún, Azor, etc., and Salm. c. i, n. 161, who call it common

and prove it from c. Problatum, De iis quæ vi, etc. The reason is that a slight fear, which can easily be rejected, is not considered a cause of so serious a thing as a vow, just as we will say regarding contracts, n. 718, 198, 6º. Regarding vows made through error, if the error is about the substance of the promised thing, or about a substantial condition, or about the end or formal reason and motive for making the vow, the vow is null (along with Salm. c. i, n. 155). 1º About the substance: for example, if someone were to vow a certain piece of their property, believing it to be silver, when it is gold; or if someone were to vow to enter a certain monastery, believing it to be of the Order of Saint Benedict, when it is of the Carthusian Order. 2º About a substantial condition: for example, if someone were to vow to enter a monastery where they believed religious discipline and the essentials of religion were strictly observed, and yet it was not so; or if someone were to vow a pilgrimage to certain shrines.

[*Latin ed. p. 289*]

The Apostles, believing that Cento was only a hundred miles distant, whereas in truth it was three hundred.

3. Regarding the final cause: if, for example, someone were to vow something in thanksgiving for the health of a parent, and that parent had not actually been ill, or had already died. (Cf. Psalm 1, verse 158, and Psalm 3, verses 15 and 16). The reason for the nullity of such vows is that there is a lack of free consent, which cannot be given in ignorance, and nothing is so contrary to consent as error. Fill., vol. 25, chapter 1, page. It is certain that error concerning the substance invalidates a vow; even if it is concomitant, that is, not giving a reason for the vow; for example, if, even knowing the error, you were to vow. Thus, Sanch., on Matrimony, book 7, title 18, number 6, and Decrees, book 3, chapter 11, number 43. And even if such error is as gross as possible. Sanch., ibid., number 7. And it is also certain that an error concerning substantial circumstances invalidates a vow, that is, those things which pertain to the substance of the promised thing, according to the examples given by Bus. here. Conversely, if an error, even if it gives a reason for the vow, is concerning conditions which do not affect the substance of the thing; for example, if someone vows to give alms to a pauper believed to be honest, he is bound to give, even if he later discovers that the pauper is dishonest or an enemy, even though, knowing this, he would not have vowed beforehand. Thus, Salm., on Vows, chapter 1, number 156. Otherwise, as they say, just as contracts, just as marriages...

[*Latin ed. p. 290*]

How many professions, how many ordinations would need to be declared invalid, if access were permitted to annul them because of accidental circumstances, apart from the essential nature, which were not foreseen! Salm. cites Ps. 137 for himself; Sot., Less. with Sanch. But this is not correct,

because Sanch., loc. cii. dec. lib. 4, cap. 2, n. 11, adheres to Busembau, who, in sup. n. 175, says that it is probable with Suar. that a juramentum (and the same is true of a vow) is invalidated by error, even concerning accidental circumstances, if these are of great importance, and if, knowing them, the juramentum had not been made. And this, concerning contracts, is considered probable by Salm. de contract. cap. 1, n. 21: therefore, concerning vows also, it seems probable. See what is to be said in n. 226, 7th. "Vows which are made after the novitiate in any approved order, are not rendered invalid like a carnal marriage, because of any error, except only a substantial error concerning the essential nature." 8th. "If there is an error concerning a substantial condition, but the matter is of little importance, the vow is not rendered invalid: as if the length of the journey of a pilgrimage which one has vowed is somewhat longer than was thought; because such a thing is considered to be of little consequence. Also, if the error is only concerning the impulsive cause, the vow is valid (Salm. cap. 1, n. 158); because that is only a secondary cause, by which, once removed, the act is sufficiently voluntary in its essence. Nor does such an error invalidate..."

[*Latin ed. p. 291*]

Other contracts are vitiated by this [type of] action; for example, if someone undertakes a pilgrimage to Rome for the purpose of serving God, and at the same time has a secondary, impulsive reason, such as to see a brother, whom he believes to be in Rome; even if he later learns that this brother is not in Rome, he does not cease to be bound by his vow. And from this, it is clear how one should understand what is commonly said: "Vows do not obligate beyond the intention of the one making them." Sanch., book 4, chapter 2; Lessius, chapter 4, title 2, paragraph 9. For a vow, a mere intention, even if very firm, is not sufficient; for he who merely intends something is not bound to fulfill it under pain of sin; but he who promises is bound under pain of sin, and if he does not fulfill it, he acts contrary to the faith given to God. Bonaventure, part 1; Layman, book 1, chapter 199. Whether a person who negligently fails to fulfill a good intention commits at least a venial sin, this is affirmed by Lessius, Palearius, etc., as cited by Salmeron in *De Votis*, chapter 1, paragraph 17, because of the lack of constancy without a just cause intervening. However, Busenbaum, Sanchoniat, book 3, chapter 1, paragraph 21, together with Soto, Aragona, Azorín, and Salmeron, paragraph 18, together with Dicena, Vallauri, Suarez, and Tolosa, etc., deny this, because (they say) the lack of constancy in itself is not a fault, unless a precept is present. Both opinions are probable. 200. For a vow, sometimes an implied promise is sufficient, as is evident in the reception of the sacred orders, where it is not said, "I vow or I promise chastity," yet

a vow is nonetheless made.

[*Latin ed. p. 292*]

However, this occurs implicitly, simply by the fact that, knowing that the Church has attached that vow to those orders, one accepts them. Indeed, it is doubtful whether, if someone were completely unaware of this, they would still be considered to have vowed, based on an implicit intention. Some maintain; others, more plausibly, deny this, stating that such an obligation to chastity is not based on a vow, but on a precept of the Church. (Sanch. de matrim. l. cit. d. 87. n. 23., Bon. c. 2. p. 1. et comm.). However, Layman believes it is more plausible that the obligation arises from the precept of the Church to make a vow. (But see what is said about this in *de sacr. ord.* lib. 6. n. 8og.). 201. » 11. o If someone had the intention of promising, but nevertheless not of obligating themselves, there would be no vow, according to Navarrus, Sanch. n. 27., Lessius, l. 2. c. 40. dub. 1. n. 6., and others against Cajetan; because such a person does not intend to vow, since they add a condition that contradicts the essence of the act. Therefore, Lugo, d. 24. de just., sect. 1., and others argue that such a person cannot be said to be promising. However, the question seems to be one of terminology. If, however, someone had the intention of vowing and obligating themselves, but not of fulfilling [the vow], then they would also gravely sin, and the vow would be valid. (Sanch., Fill., Bon. p. 1. n. 14., Layman, etc.). Many distinctions must be made here. 1. o If someone vows with a positive intention of not promising or obligating themselves, then certainly there is no vow, as Salm. tr. 17. c. 1. n. 19. states, along with St. Thomas.

[*Latin ed. p. 293*]

And in common [opinion]. 2. If the one making the vow has the intention of promising and obligating oneself, but with the intention of not fulfilling [the vow], it must be said that he is bound by the vow, according to the common opinion, as taught by Lessius, *lib. 2, cap. 40, n. 7*, Sanchez, *decis., lib. 4, cap. 1, n. 23*, and Salm, *n. 21*, along with Suarez, Cajetan, Azorín, Bona, etc., against Valentini. The reason is that the obligation of a vow does not depend on the intention of fulfilling it, but on the will to obligate oneself, which is already present. 3. If the one making the vow has the intention of promising and fulfilling [the vow], but without a positive intention of obligating oneself, then if this person sufficiently knows the obligation of the vow, but does not consider it when making the vow, and has a negative disposition, not wanting nor excluding the obligation, he is nevertheless bound by the vow; because he who desires an antecedent act, desires (at least implicitly) its consequent obligation. Thus, commonly, Sanchez, *de matrim., lib. 1, d. g., n. 11*, Palafox, *tom. 3, tract. 15, d. 1, p. 3, n. 2*, Tamini, *lib. 3, cap. 12, §. 1, n. 6*, Salm, *lib. cit., n. 23*, and others, generally. But the question is: 1. Is one bound by a vow who does not know

the obligation of the vow and has a negative disposition, not explicitly nor implicitly intending to accept it? Palafox affirms this, *lib. cit., n. 2*, and Suarez, *de vot., cap. 3, n. 9*, because he is to be considered as having intended to promise according to the manner and intention that others rightly have when making a vow. But it is truer to deny this, as Sanchez states, *de matrim., lib. 1*.

[*Latin ed. p. 294*]

d. g. n. 2. With Led., Arag., and Man., also Croix, lib. 3, p. 1, n. 365, Tamb., l. c., n. 8, and Salm., n. 23, who assert that this is the opinion of almost all. The reason is that no one incurs an obligation unless he wishes to impose it upon himself; but here, in no way does he wish to undertake it, neither formally in himself nor virtually in a promise, since he errs in judging the substance, believing that such an obligation is not attached to the vow. However, it must be said differently, as Sanch. and Tamb. rightly point out, in their respective works, if someone wishes to make a vow in the ordinary manner in which others make vows; because then he implicitly intends to incur an obligation.

Question 2: Is one bound by a vow if he wishes to promise and knows the obligation of the vow, but does not wish to obligate himself with the vow?

The first opinion, held by Soto, de just., lib. 7, q. 1, a. 2, and Prado, Arag., Gutt., etc., as cited by Salm., c. 1, n. 24, says that he is bound; because, having the will to emit a true vow, the obligation that arises from the vow cannot be separated from it.

The second opinion, which is more common and more probable, denies this, and is held by Sanch., dec., l. 4, c. 1, n. 27, Less., lib. 2, c. 40, Pal., tr., 15, d. 1, p. 3, n. 2, and Salm., n. 25, with Suar., Azor., Bon., Val., and Trull. The reason is, firstly, because he who wishes to impose a condition contrary to the substance of the contract renders the contract invalid; secondly, because the law (as a vow is a law)

[*Latin ed. p. 295*]

A particular [promise] does not obligate, unless according to the will of the legislator. Hence, Salm. infers that he who promises marriage or receives holy orders, or makes a religious profession, without the intention of obligating himself, is not bound by the marriage or the vow. But see what is said about this in *De Ord.*, book 6, number 809, doubt 2. As for what sin it is to vow in this way without the intention of obligating oneself, Sanch. number 38, Pal. number 5, and Salm. with Suar., Bon., Trull., Reg., and Fill. generally hold that it is not mortal, but only venial, due to a certain lack of order. It is said "generally" because in religious profession and the reception of holy orders, it would undoubtedly be mortal, since it would be a deception in a very serious matter. See what is said about oaths,

number 172, line 2. If, however, question 3: Does he who doubts whether he intended to obligate himself by making a vow, incur an obligation? Tamb. believes it is probable that he is not obligated; but it should be said the opposite, as Croix states in book 3, page 1, number 384, and Gob., Dian., and others there generally agree; because until the invalidity of the act is established, there is a presumption of its validity, as Menoch. and others teach there. The same should be said, as Croix rightly states in number 386, against Gob., if someone doubts whether he knew or considered the obligation of the vow; because, according to what commonly happens, everyone is considered to know and to be aware that every vow entails an obligation.

[*Latin ed. p. 296*]

That which is to be fulfilled. What if someone doubts whether he has made a vow or promise, but remembers that he believed he would be committing a grave sin if he did not fulfill the promise? Croix, number 566, holds that he is not obligated, because at least the vow is doubtful; and many unlearned people still making a bare promise are wrongly held to be bound by it under sin. But I do not agree with this, and I believe that this person should be considered to have truly vowed and to have incurred the obligation of the vow; for since he has already understood that he would be sinning by not fulfilling the promise, it is rightly argued that he truly acknowledged it and imposed it upon himself.

THIRD DOUBT. WHAT IS REQUIRED FOR THE MATTER OF A VOW.

202. Whether a vow concerning an impossible thing is binding.

203. Whether a vow to avoid all venial sins is binding. What if someone vows to avoid all mortal and venial sins collectively?

204. Whether a vow concerning a vain thing is binding.

205. Whether it is a mortal sin to vow a venial sin.

206. Whether a vow made with a bad intention is binding.

207. Whether a vow impedes a greater good.

208. Whether a vow not to petition for a dispensation is binding.

209. Whether a vow of marriage is binding.

210. Whether a vow not to vow is binding.

202. "RESPONSE. It must be probable (since that which is impossible cannot be effectively intended, nor is there an obligation to it), and not only..."

[*Latin ed. p. 297*]

"Good, but also better than the opposite, or its omission: for the end intrinsically contained within a vow is to honor God through it. This, how-

ever, cannot be accomplished unless something pleasing is offered to Him; and something cannot be pleasing if one is obligated to relinquish what is better. Sanch., l. g., c. 7; Laym.; Nav., etc."

"What if someone vows something that is both possible and impossible? Response: The possible part is to be observed, if it is divisible. For example, if a spouse vows chastity, he is bound not to request [marital relations]. Similarly, a vow is valid if the principal part of it is possible, even if an accessory part is impossible. Conversely, if the opposite is the case. See Salm., cap. 1, n. 75."

"What if the vow is disjunctive? See n. following. See also. Therefore, one resolves: 1st. A vow never to commit a venial sin is invalid, since it is morally and ordinarily impossible. However, some hold that one should be bound by such a vow to avoid mortal sins and more grievous venial sins, as the Scholastics, Nav., c. 12, n. 63; Suar., l. 2, c. 3; Sanch., de matrim., lib. g., d. 35, state."

"205. Salm., c. 1, n. 80, with Sanch., Pal., Trull., and Prad., assert that a vow to avoid all venial sins, even if fully deliberate, is entirely invalid, as it pertains to something morally impossible, according to c. 23 of the 6th session of the Council of Trent. Regarding the vow of St. Theresa..."

[*Latin ed. p. 298*]

In order to better understand what one ought to do, I respond that this was emitted from a special inspiration of the Holy Spirit. V. Psalm 83. But Croix, in book 3, page 1, paragraph 401, says more truly that it is a good and valid vow to avoid deliberate venial sins; and indeed, it is not impossible for those who love perfection to sufficiently avoid them. However, a vow to abstain from venial sins in a particular matter is generally valid, especially for those of great virtue; but for others of moderate virtue, it will be an impossible matter. Indeed, in some matters, such as impure thoughts, idle thoughts, etc., since they are unavoidable for all, the vow is null. Thus, Salm. n. 81, with Caj., Sanch., Suar., etc. Similarly, there is no vow to avoid both mortal and venial sins collectively, nor is there a vow to avoid mortal or venial sins divisively: because there is no disjunctive vow in which one part is suitable and the other unsuitable, and the one making the vow has not intended to obligate himself definitively regarding either part: for example, if you vow to either pray or play, the entire vow is null. Salm. n. 83 and 141, with Sanch., Trull., Vill., and Leand. Thus also Pal. p. 8, § i, n. 8, and Croix, in the aforementioned book, n. 402; but they rightly point out that if anyone has obligated himself with such a vow, he is, to the extent that he can, bound to at least avoid mortal sins. And I also believe that he is bound to...

[*Latin ed. p. 299*]

1. It is necessary to avoid deliberate venial sins, as I stated above.

2. A vow concerning a vain, useless, or indifferent matter is invalid, unless the circumstances or the end [of the vow] are good (provided that the circumstance does not arise solely from the relationship of the person making the vow, but rather from itself leads to a good end. Salm. c. 1. n. 57.): because a foolish promise displeases God, and therefore He does not accept it, and one who makes such a vow sins venially. For example, if someone falling from a horse vows not to mount the horse again. Nav. c. 12., Sanch. mor. c. 7. (with Salm. n. 55.).

3. A vow to do evil is invalid, and he who vows a mortal act sins mortally; but those who vow a venial act are said to sin only venially, according to Salm., Silv., etc. See *Juramentum*; although Cajetan says that one who intends to sin mortally sins mortally, and Less. lib. 2. cap. 4. d. 5., which seems more probable.

4. It also seems to me more probable to vow to do evil, even if it is a venial act, because it involves a grave fault; since, in the case of blasphemy, it is to desire that evil yield for the honor of God. But commonly, due to ignorance, this is only venial, as Salm. rightly notes, c. 1. n. 71, *in fine*. We have said the same about oaths, n. 146, v. 5, venially.

5. A vow is invalid to which is added a bad end or other circumstance.

[*Latin ed. p. 300*]

Concerning the matter of the vow: for example, if someone vows alms to obtain vain glory, or to achieve through it an unjust victory, a fortunate success in theft, adultery, etc., or in an act of thanksgiving for the success of such a sin; because giving alms for such a purpose is a blasphemous act, as if God were promoting sins, and therefore it cannot be the subject of a vow. Caj., Nav. cap. 12; Sanch. cap. 6; Laym. lib. 4, tom. 4, cap. 2, n. 6; Fill. t. 26, cap. 5, n. 5.

However, it is valid even if a bad end or other circumstance is added, provided that it pertains only to the one making the vow: for example, if someone vows to give alms to a beggar out of vain glory or out of anger towards the importunate beggar; because in that case, the thing vowed is good, even though the person making the vow does so badly and with sin. Ibid.

Note here the difference between a wicked end on the part of the matter of the vow and on the part of the one making the vow: for the end is wicked on the part of the matter of the vow, when the thing promised is directed towards a wicked end, namely, if you vow fasting in order to receive applause; and then the vow is null, as is commonly taught with Bus., Laym. lib. 4, tract. 4, cap. 2, n. 7; Salm. cap. 1, n. 67. And the same is held by Salm. n. 68, and others, even if the wicked end of the vow is not the

primary, but only a secondary motive.

[*Latin ed. p. 301*]

Whether it be an impulse, but without which the vow would not be made. The same is to be said if the end be indifferent or merely temporal; therefore, if someone vows fasting in order to spare expenses, or almsgiving in order that he may not be considered greedy, there is no vow. However, a vow made to obtain temporal things from God, or to give Him thanks, is valid; because it is good to hope for these things from God, or to give thanks to Him for them. Thus Laym. ibid. n. 10, and Salm. n. 70, with Sanch., Pal., Trull., Bon. etc. Laym. n. 7, and Salm. n. 69, with Caj., Sanch., Bon. and the common opinion, note that if a wicked act is not placed as the end of the vow, but as a simple condition, namely, if someone vows fasting, if he kills an enemy; if he commits *furtum* [Füth], then the vow is valid, because, when the condition set forth is fulfilled, it is right to fulfill the vow. Therefore, it is said when the end is wicked from the part of the thing vowed. Otherwise, it would be different when the end is wicked from the part of the one making the vow, that is, when not the thing vowed, but the very act of vowing is directed to a wicked end: for example, if someone outwardly vows fasting in order to be praised by others for that act of making the vow, then the vow is valid, as Bus. rightly says, n. seq., with the common opinion apud Laym. ib. and Salm. n. 67. Hence, Laym. says there, that he who, from an disordered appetite for eating fish, vows to become a Carthusian, is bound by the vow. But this is by no means so to me.

[*Latin ed. p. 302*]

It seems to be proven that, if the consumption of fish and game is not a good spiritual end of the religious state, then the very matter of the vow, which is the acceptance of the religious state, is directed to a vain end, which weakens the vow, as stated above in common law. 6th. It is also a valid vow made from affection for a good thing, even if it is joined with a bad cause: as if someone were to vow alms, if he escapes from a duel unharmed, if he is not caught in theft, if a son is born to him from an adulterous act which he commits, etc.; for although dueling, theft, and adultery are evil in themselves, yet these things, when considered in themselves, are not bad, but are gifts of God; and the vow does not fall upon these evils, but upon these goods. Nav., Laym. loc. cit. ». 207. » 7th. It is invalid and a venial sin to vow a good thing which is an impediment to a greater good, especially vows contrary to the evangelical counsels: such as, for example, to remain in the world, to take a wife, to go to war, to engage in commerce. Nav. n. 29., Suar., Fill. c. 1. q. 7. n. 58., Sanch. etc. (And they say Salm. n. 37. with St. Thomas 2. 2. q. 89. a. 7. ad 2.) ». 8th. However, if some good, by itself and absolutely, were to become, by accident, a greater good, then it

is permissible to vow such a thing: as, for example, if...

[*Latin ed. p. 303*]

Who would desire the reception of orders to be detrimental to him. V. Bon. p. 1. Thus also Salm. n. 37. ». 208. The question, however, concerns whether a vow not to seek dispensation, commutation, or invalidation of a vow is valid, even with a just cause (for without a just cause, it is certain that it is valid); the first opinion denies this, following Sotus, Trullius, Tambacus, Sanchez, etc. The second opinion affirms it, following St. Antoninus, Bonaventure, Suarez, Fulgentius, etc., as found in Salm. cap. 1. n. 49 and 50. And this appears more probable; noting that in the case where it is more beneficial for the spiritual good to seek dispensation, the vow does not obligate, although it may be valid. However, this vow can always be relaxed by a superior, to whom his power is always preserved. Salm. n. 51, with Sanchez, Palotius, Suarez. It should be noted that he who vows not to seek dispensation, may seek commutation, and conversely. V. Salm. n. 52. 209. » 9. Marriage is ordinarily invalidly vowed; because ordinarily, celibacy is better. I said ordinarily; because it can be validly vowed: 1. if one is obligated to this, either because without causing injury or serious infamy to the spouse or to the children conceived from the marriage, one cannot withdraw from the betrothal; 2. if it is considered to be very useful for the state; for example, because from it is hoped for peace among princes, or conversion.

[*Latin ed. p. 304*]

"Concerning heretics, the tranquility of the kingdom: 3. If someone, due to weakness and a long-standing habit of sinning, is so prone to falling that prudent individuals judge it advisable for him to marry; in this, however, Layman and others dissent. See Bonaventure, *locus citatus*, Fill., no. 6, Navarrus, Suarez, *locus citatus*, Layman, no. 12.

The vow of marriage, in itself, is not absolute, even if it is to be undertaken to support a poor person, a prostitute, or to correct the sins of others; because celibacy is always more pleasing to God. This is the opinion held by Salmanticensis, chapter 1, paragraphs 38 and 39, along with Sanchez, Leander, Palearius, Torres, and Prados. However, if the vow is made to avoid scandal or to protect the honor of a girl, out of a duty to repair something, or for the common good, as Bus explains, or based on the supposition that the person making the vow intends to marry, then he is bound by the vow, as Salmanticensis states in no. 38, at the end.

However, a significant question is whether someone who vows to marry due to a known weakness is bound by the vow. The first opinion denies this, because such a vow would be self-restrictive, hindering a greater good, namely, entering religion or maintaining celibacy. Furthermore, such a vow would be useless, since, even with this vow, the person could freely enter

religion; especially since marriage is the lowest remedy for concupiscence. Thus, Lessius, book 2, chapter 4, no. 44, and Palearius, Soto, Prado, and others, as cited by Salmanticensis, chapter 1, no. 40."

[*Latin ed. p. 305*]

However, the second opinion is certainly and by far more probable, as held by Bus, Sanch., dec. lib. 4, cap. 8, n. 53; Viva de spons. q. 1, a. 3, ex n. 3; Salm. de voto, cap. 1, n. 41 et 42, with Bell., Nav.; Caj., Bon., Trull. etc., who state that the vow is valid, provided that one does not wish to use other remedies; because in such a case, marriage is the greater good, since, for those who do not wish to accept better remedies, marriage has been granted by God to restrain concupiscence; concerning these things, the Apostle says: "It is better to marry than to burn" (1 Corinthians 7:9); especially because here, a man frequently subject to temptation is bound by natural law to marry, provided that he does not wish to use other remedies. Dices: therefore, a subdeacon who vows chastity could marry, if he cannot control himself, since marriage is a better good for him. But it is answered that here, it is more expedient for the common good that the vow remain in its full force, rather than that he should thus consider his own frailty. V. Salm. n. 45. Salm. holds that those are bound to marriage who do not wish or cannot use other remedies. But Laym. l. 4, tr. 4, cap. 2, n. 12, citing St. Jerome and Ambrose, and Spor. de voto, n. 61 et 62, state that one is bound to marriage who does not wish to use another remedy, but not one who cannot use it; for no one who wishes to use suitable remedies can be said to be unable to do so.

[*Latin ed. p. 306*]

To employ it. Moreover, who is forbidden to use prayer, by which, without doubt, all concupiscences can be overcome, as it is written in Luke, chapter 1: "Every one that asketh, receiveth?" 210. Question: Here, if someone who is very prone to making vows vows not to make any more vows, unless with the permission of the confessor, and then vows something, for example, a fast, can he validly fulfill that vow? Answer: Following Layman, book 4, treatise 4, chapter 2, number 5, and I say: 1st, that the first vow is indeed valid, since it pertains to a better good; 2nd, that he has sinned by breaking the second vow; 3rd, that, notwithstanding the first vow, he is bound to fulfill the second; and that, since it has a good object, it is sufficiently valid. I except only if he has determined that no future vows should be valid unless the advice of a confessor is added; in that case, there will be no validity in the second vow, unless it is expressly or virtually retracted, that is, if, remembering the first vow, he made the second. Finally, it should be noted that if someone made several impossible vows, he ought to strive to fulfill them, otherwise the former vow takes precedence over the latter. Thus, Layman, in the same place, with the Council of Trent and

Busenius, number 225. 2. Contrary to Sanchez, who says that it is then up to the one making the vow to fulfill what he prefers. Regarding a vow against another vow, see what was said above, number 179.

[*Latin ed. p. 307*]

FOURTH DOUBT. WHAT AND HOW GREAT IS THE OBLIGATION OF A VOW?

211. Does a vow concerning a trivial matter ever impose a serious obligation?

212. What if one neglects a vow concerning a trivial matter for a year?

213. See other matters concerning this in Busemb.

214. Are heretics bound by the vows of the deceased?

215. Can a father, through his vows, harm the legitimate rights of his children?

216. Concerning vows made regarding the actions of another.

217. Can vows be fulfilled by another?

218. Does one sin by preventing the fulfillment of the condition opposite to that stated in one's vow?

219. Matters to be noted concerning conditions in vows.

220. After the day promised has passed, is one bound by the vow?

221. Does an indeterminate vow always impose an obligation? And what delay is considered mortal?

222. What if someone vows to enter a religious order without specifying a particular location or religious order?

223. What if someone vows not to gamble under penalty?

224. More noteworthy points to be considered concerning vows; and especially, whether a vow is binding if a circumstance not foreseen arises.

211. "RESPONSE: The obligation of a vow is as great as the quantity of the matter permits, and as the intention of the person making the vow indicates, by which he intends to bind himself either greatly or little, or absolutely, or with a certain condition, restriction of time, or quality; so that although the obligation of a vow is of natural law, its force depends on the will and act of the person, as a prior condition, so that it only obliges to the extent that he intends, or to the extent that he acts. Thus, *Commentaria in Decreta*, Laym., c. 3; Bon., p. 5."

[*Latin ed. p. 308*]

Wherefore, it is resolved: 1.º In matters of slight consequence, no one is bound under a mortal penalty; because the matter itself does not permit it (nor, even if one wished to obligate oneself under a grave penalty, *Salm.*, cap. 1, no. 106; *Nav.*, no. 40; *Sanch.*, lib. 4, cap. 12; *Laym.*, *loc. cit.*; for

example, if you vowed to recite the "Salve, Regina" daily, omitting it once or twice, you do not sin mortally, because the matter is slight). *Sanch.*, l. 4, cap. 12; *Laym.*, *loc. cit.*; *Azor.*, lib. 21, cap. 15.

It is questioned whether the transgression of a vow is mortal when the entire matter of it is slight. Cajetan, Tollet, and Cordier, in *Salm.*, cap. 1, no. 112, affirm, in the same way as in a promissory oath, that if something slight is promised, one sins gravely (as they say) who does not fulfill it. But the opposite must be held, as stated by Bus and Lessius, lib. 2, cap. 40, no. 56, and by Soto, Suarez, Trullius, Bona, Palotti, etc., in *Salm.*, no. 113; because a vow is a particular law, and a law does not obligate except according to the gravity of the matter. Indeed, the same must be said of a promissory oath, as stated in *Salm.*, no. 114, with others; and we have said above, no. 173. Hence, it follows that a vow to avoid sin does not obligate except according to the gravity of that sin: for example, if you vow to avoid lying, by lying you sin only lightly, but doubly, against truth and against the vow. *Salm.*, no. 115, with *Sanch.*, *Trull.*, *Nav.*, etc. Unless, however...

[*Latin ed. p. 309*]

The avoidance of that sin is a matter of great importance, because lying is highly unbecoming of a person constituted in dignity, or because, through that sin, someone may be greatly hindered in their progress in virtues. *Psalmus* 212. Indeed, even if one omits it throughout the entire year, it is only venial, because these small matters do not coalesce into one, which is probably taught by Dionysius, volume 5, mixed questions, number 24, from Soto, Aragon, and Tann, 2, 2, chapter 3, doubt 3, against Valen. etc. As also they say in *Salm.*, chapter 1, number 115, with Villalobos, etc. But they rightly point out that this must be understood correctly when the promise of these minor matters is made in honor of the day, as it is to be considered in all personal vows, unless the contrary is established, as commonly say *Salm.* in the aforementioned place, and Croix, book 3, page 1, number 450, with Soto, Suarez, Layman, Dionysius, Palearius, etc. For on the contrary, if the promise of a small thing is made in a single, indivisible manner, so that a day is not assigned as a limit, but rather that the obligation is not deferred beyond that point, then the matters coalesce and can reach the level of a mortal sin. Therefore, if you vow to give a small alms daily, you sin gravely if you omit it daily, having made the vow in a single, indivisible manner. Thus, *Salm.*, chapter 1, number 115, with Sanchin, Suarez, Trullius, Leander, etc. From this, they note that concerning real vows, unless otherwise established, a day is regularly not added to terminate the obligation, but to prompt the obligation.

[*Latin ed. p. 310*]

And therefore, matters coalesce, as commonly taught by St. Augustine, Psalm 131, with Suarez, Palearius, Bona, Vasquez, and Croix in the cited

passages, as mentioned above. See *Dicta Notabilia* n. 220, see *Utrum* 213. 2. In a grave matter, even if someone may have obligated themselves only lightly (as is piously demonstrated by St. Augustine, chapter 1, paragraph 100, with Moller, Suarez, Palearius, Fillon, etc., with a more common and probable opinion against Soto, Pontius, Cordier, etc.), nevertheless, it is generally considered that they intended to obligate themselves gravely, unless something else indicates otherwise. Therefore, he who violates such a vow sins gravely in its very nature. See ibid. 3. He who, having obligated himself with a grave vow, subsequently regrets having done so, does not sin gravely, provided he maintains the intention of fulfilling it. See Suarez, see *Votum*. 4. He who violates a vow concerning a matter already commanded by the law, for example, he who fornicates after a vow of chastity, must add in confession that the vow has that meaning or that he has received it from his superiors, if the confessor is unaware; because then the malice of the sin is twofold. Suarez, chapter 6; Lessius, *Decretum* 7; Sanchez, chapter 5; Fillion, chapter 2, question 7. (For, in general, a vow concerning a matter that is otherwise commanded by the law is valid. St. Augustine, chapter 1, paragraph 32, with St. Thomas, against Gershom, St. Antoninus, etc., paragraph 30.) 5. No one is obligated by another's veto concerning a vow. Therefore, if canons seem to indicate that a son is devoted to religion by his father...

[*Latin ed. p. 311*]

"That she should be compelled to acknowledge them, it must be understood whether the son has once ratified the father's vow. Suarez, c. 9; Sanchez, Laym., c. 5, n. 6 (Salm., c. 1, n. 118). " 6.º "Since the heretic is held to fulfill the real vows of the deceased, not by the force of the vow itself, but by justice, just as he is held to fulfill other debts of that person, legacies, etc., Ibid. " 214. "Certainly, the heretic is held to fulfill the real vows of the deceased, just as other debts, according to the second law, in the sections concerning promises, and from the chapter 'Licet de voto.' From this, he can be compelled to fulfill them through excommunication. Therefore, such vows should be satisfied before legacies, but after debts of justice. Salm., art. 1, n. 125. " 215. "The question arises here whether the father, through vows, can harm the legitimate children after his death. The first opinion affirms this, with Navar, Silv., Dian., Lop., Vega, etc., apud Salm., c. 1, n. 126. " "As these [authors] also say, the father can burden the legitimate children with remuneratory donations. However, the opposite should be held, according to the second opinion. For the father, in his life, can somewhat diminish the legitimate portion of his children or heirs through moderate vows; but not in death, where, according to the law, he must dispose of his goods, and the legitimate portion, which is due by right, cannot be burdened by a voluntary debt, according to Eccl. 34: 'The offering of the sacrificer, if unjust, is defiled.' Thus, Salm., n. 127, with

Sanchez, Laym., Bon., Pal., Trull, etc."

[*Latin ed. p. 312*]

216. » 7th. In like manner, if a community has vowed something to which the descendants have not consented, they are not bound to observe it by the force of the vow, but sometimes by reason of a pact, a statute, or a long-standing custom. See Layman, here, chapter 3, 8th. When someone vows to take care of another's affairs, the meaning is that they will take care of it in whatever way is permissible, for example, by asking, persuading, or even commanding, if they are superior, or even sometimes by paying and providing expenses. Thus, parents who have vowed a son to religion are bound to nothing other than to try to persuade the son. Likewise, he who has vowed to take care of another's Masses or pilgrimage, when he has paid the stipend and expenses to that person, is not bound to replace him with new expenses, if the former does not provide what he has obligated himself to do. Sanchez, Layman, number 7. » 217. » 9th. Personal vows are fulfilled only by the one who makes them: therefore, he who has vowed a pilgrimage to Rome, for example, does not fulfill it if he sends another; nor is he bound to do so if he himself is unable. Ibid. » 10th. Real vows must be fulfilled from one's own resources; therefore, he who is unable to do so from his own resources is not bound to beg from another. But if he can do so from his own resources, and yet another, either requested or spontaneously, wishes to fulfill it, that is valid; because then what the other gives becomes his own: but the action of another person cannot be done for another. See ibid.

[*Latin ed. p. 313*]

Indeed, one fulfills a vow or oath of alms properly who, unaware that the alms were given by another for that very purpose, afterwards ratifies it upon learning of it, because at that time the vow is fulfilled with the consent of the one who made it: thus, Psalm 1, verse 122, with Sanctius, Bonaventure, and others. And this seems quite probable; just as one would properly fulfill a promise made to another person in such a manner, so too one fulfills a promise made to God. 218. 11th. Conditional vows do not obligate, if the condition ceases, even if the one who made the vow was mistaken in thinking that the condition should not be imposed; provided that this was not prevented by deceit, force, or malice; as, for example, you vowed a pilgrimage, if Peter approves; then you persuade someone not to approve: therefore, if he does not approve, you are not bound. Indeed, even if you maliciously prevent it through deceit, etc., it is still probable that you are not bound by the vow, as Layman states in chapter 8, citing Suarès and others. (And this is more probable, according to Psalm 173, with Palearius, Fillon, etc., against Azorín, Bonaventure, etc., because the condition is no longer fulfilled, even if due to the fault of the one who made

the vow). Meanwhile, Layman rightly points out here the intention of the one who made the vow: as, for example, if a son vows to enter religion, unless his father objects, it seems that his intention was that he would be left to himself, freely, spontaneously, etc. "But if you maliciously prevent it, you sin. You vowed..."

[*Latin ed. p. 314*]

If the father approves, [then one may] embrace the religious life; but if you hinder the father's consent through prayer or reason, you do not sin; otherwise, if you hinder it through force or deceit. Furthermore, you have vowed chastity if God frees you from mortal danger for a year; but if you fall through weakness, you do not sin with respect to the vow. Otherwise, if you deliberately sin in order to be released from the vow. And so with the others. Salm. c. 11, n. 171, with Laym., Pal., Sanch., etc. 219. Regarding the conditions of vows, it should be noted: 1. That all disgraceful or impossible conditions render vows null; Salm. cap. 1, n. 165. It should be noted 2. That for the obligation of a vow, it is not sufficient that the condition be fulfilled equivalently, but it must be fulfilled specifically; for example, if you vowed religious life if your sister marries, it is not sufficient if she dies. Salm. ibid., n. 169. 220. 12. He who has vowed a certain and definite thing, for example, this chalice, if that thing perishes, is not bound to another, since this is not usually intended; but if he sells it, it seems more probable that he is bound to give the money he received; because he who vows a thing is considered to be promising all of its utility. 13. He who has vowed to do something at a certain time, such as fasting on this or that day, after that time has passed, whether with or without guilt, is bound to nothing; and neither if he foresees an impediment arising at that time.

[*Latin ed. p. 315*]

"He is held to fulfill it, since this is not usually the intention of the one making the vow. Suar., Nav. lib. 1. V. Bon. p. 5." But the same rule that we mentioned above in n. 212 applies here, in accordance with the common opinion found in Salm. c. 2. n. 120 and 130. For, nothing is required after the day has passed, if a day has been specified for fulfilling the obligation, as is the case with personal vows, unless the contrary is established, as the common opinion states in Croix l. 3. pag. 1. n. 450, with Sot., Pal., Laym., Dian., etc. Salm. cap. 1. infra n. 115. See also Inferior 1. from Trull., Suar., Sanch., etc. Conversely, if a day has been set only to encourage the fulfillment [of the vow], as is generally understood to be the case with solemn vows, precisely if that day has no special significance compared to others, as Salm. ib. n. 133 states, with Suar., Pal., Bon., etc., and Croix loc. cit. with others, as mentioned above. However, whether in doubt as to whether the day was set to fulfill or merely to encourage the execution of the vow, Dian. p. 3. tract. 5. r. 26, states that one is not bound by the vow for days that

have passed, because, as he says, vows in doubt do not obligate, since they must be strictly interpreted, according to the rule commonly taught by the Doctors, with Caj., Laym., etc.: but, speaking generally, Spor. de Il. præc. n. 109, and Salm. cap. 1. n. 132, with S. Th., Sanch., Pal., Trull., Azor, affirm the opposite.

[*Latin ed. p. 316*]

And Bon. give the reason from Salm., because when a vow is certain, and one only doubts about the circumstance excusing [from it], possession is considered to stand for the vow. But this reason does not convince: for it could be answered that here one doubts about a circumstance which affects the substance of the vow, and therefore the vow itself would render the doubt, according to what was said in n. 198. Hence, it seems to me that a distinction should be made, and it should be said that in personal vows, one is not bound to satisfy for past days when there is doubt; but in real vows, this is different. The reason is, because on the one hand, the rule is firm that, for that which possession stands, so too is the presumption, as the Doctors commonly teach with Bus. (See lib. i. n. 74. and following), Croix, l. i. n. 509, Sanch., dec. lib. i. cap. 10. n. 13, with Sot., Mol., Arag., and Menoch. On the other hand, it is a very common opinion that, unless the contrary is established, as noted above, in real vows, the days are presumed to be applied only to urge the obligation, as Salm., cap. i. n. 131, with Suar., Sanch., Vasq., Pal., Bon., Prado, and Croix, lib. 3. p. i. n. 450, with Laym., Sot., and Dian. Unless, however, the vow had a special connection to the day: for example, if one wished to give alms during the week of jubilees or on the Sabbaths throughout the year, because, for example, one received grace during that year; as Spor. n. 106, and Salm. n. 129, with others. Otherwise, if the days have no...

[*Latin ed. p. 317*]

It would have a connection with the vow: namely, if one vowed to give alms on the Sabbaths throughout the year, without any special consideration for that particular year, as rightly stated by Spor. n. 106, in fine. In vows, a specific day is presumed to be set to fulfill the obligation, as stated by Salm. c. 1, n. 115, and Croix in the same work, as mentioned above. Therefore, in real vows, since the presumption is in favor of the vow, it is also presumed that possession is held; and therefore, it must be fulfilled even for days that have passed. Conversely, it must be said regarding personal vows, in which the presumption is to the contrary; and thus, Salm. must be understood in chapter 1, n. 115, as they assert that in personal vows, a specific day is presumed to be set to extinguish the obligation. 221. » 14. "He who vowed something without a certain time, for example, a pilgrimage, is only obligated to fulfill it when he first has the opportunity: because in this way, everyone is morally considered to understand his promise, so

that he does not delay it too long, although a lesser reason is sufficient to postpone it than to omit it. Fill. cap. 4, q. 10, Suar., Laym. c. 3, Bon. etc." An undetermined vow with regard to time, for example, of the daily rosary, or fasting on the Sabbaths, obligates perpetually, unless something else is gathered from the circumstances. Salm. c. 1, n. 140, commonly. However, if it is doubtful whether the vow was...

[*Latin ed. p. 318*]

For a year or a month, one is not bound, unless it be otherwise. Salm. n. 146, with Sanch., Trull., Suar., Bon. etc., from c. 18, concerning tithes. It is questioned whether one who makes a vow for an indefinite time commits a mortal sin if he delays fulfilling it for a long time. It is certain that if the vow is for perpetual obedience to God, such as entering a religious order, serving in a hospital, and the like, he commits a mortal sin who delays it for a long time, if the opportunity to fulfill it is present, and he will not be excused by a reasonable cause. However, Armill., Rodr. and Led., apud Salm. de statu relig. tract. 15, cap. 2, n. 32, state that delaying a religious vow for two or three years is not a mortal sin; but this opinion seems to deserve less consideration to others, as Spor. de II. præc. n. 117, Salm. loc. cit., Sanch. dec. l. 4, c. 14, n. 22, state. Others, as Sanch. loc. cit. and Croix, with Pal., speaking generally, say that delaying for six months is a mortal sin, and Salm. d. n. 32, with Trull. and Garcia, agree with them, believing that a delay beyond six months is mortal. Spor. also agrees if the one making the vow is over 40 years of age; however, Tamb. believes that a young person of 15 or 16 years of age may be excused from a mortal sin if he delays for three or four years, because (as they say) this time seems to be a small matter in relation to the service of a whole life. But I do not entirely agree with this, unless there is a just cause for the delay. Just causes are...

[*Latin ed. p. 319*]

The causes for dispensing with a vow are: if the one making the vow hopes that, through delay, the parents might be softened; also, if a grave spiritual or bodily necessity exists for the brothers or sisters. Thus, Croix, book 3, page 1, paragraph 446, citing Pal., Gob., Bon. de voto, question 2, page 5, paragraph 3, citing Arag., Tab., Sanch., dictionary, book 4, chapter 14, paragraphs 5 and 6, and Salm., de c., book 2, paragraph 32, citing Suar., Mach., Pell., Trull., and Garcia. However, Spor. and Salm. rightly caution that in these cases, one must diligently avoid excessive delay or the danger that the vow will never be fulfilled; a danger which is not infrequently present in religious vows, for which demons incite countless dissensions and impediments to their execution. If, however, the vow is for a temporal matter, that is, a certain number of fasts, pilgrimages, etc., Spor. holds it probable, in II. præc., paragraph 11, citing Tamb., that any delay does not constitute a mortal sin. And Sanch. supports this in his dictionary, book 4,

chapter 14, paragraph 21, referring to St. Antoninus, who says that it is a mortal sin when the delay is for a long time, and from that delay arises the danger of forgetfulness or inability to fulfill the vow. But it is truer to say that one sins mortally who, without a just cause, notably delays fulfilling a vow, namely, for more than two or three years, as Croix rightly states, book 3, page 1, paragraph 446, and Salm., de statu rel., book 1, paragraph 32, citing Pal., Trull., and Garcia.

[*Latin ed. p. 320*]

However, concerning Croix with Diana, if you vowed to confess each month, you could postpone it by two or three days beyond the month. 222. » 15. He who vowed something without a specific place, for example, to enter the Order of St. Benedict, fulfills his vow by entering any monastery of that order in which the essential elements of the rule are observed. He is not obligated to travel throughout the province, but it is sufficient to go to a few places not too far apart; and he fulfills his vow if, after entering, he is dismissed or leaves (at least with a just cause, such as, for example, grave and prolonged sadness and anxiety, whether arising from his own nature or from some other source; Escob. from Sanch. vol. 1, book 4, chapter 16, paragraph 100). before making his solemn vows. See Trull. book 2, chapter 2, d. 20, paragraphs 7 and 8. (And see book 4, paragraph 72). » 16. He who vowed something without a specific quality, for example, to enter a religious order in general, can enter any order, even a less strict one, provided that the essential elements are observed and it is approved. Similarly, if someone vowed to give wheat, etc., he is not obligated to give the best that he has, but it is sufficient (speaking of a precise obligation) to give something that is not completely unsuitable (idem Salm. c. 1, paragraph 140, with Laym., Suar., Bon. etc.). He who vows to give a chalice, to build a church, must fulfill his vow according to common usage.

[*Latin ed. p. 321*]

17. He who has vowed something without a definite quantity, for example, alms, money, grain, etc., fulfills his vow by giving as much as he wishes (Salm., ibid., citing Doctors); provided that he does not give so little that it appears to be mockery of his vow rather than its fulfillment. The reason for all of this is sought in the intention of the person making the vow, by which no one is considered to be obligated except to that which he can conveniently do and which is commonly considered fitting. Suar., Sanch., book 4, chapter 13.

18. In a doubt concerning the mind of the person making the vow, the interpretation should be made according to the proper meaning of the words used; or rather, according to the common and customary understanding. Fill., volume 26, chapter 2; Laym., chapter 3 (Salm., from number 134).

223. 19. He who has vowed, if he plays cards, to give ten imperial coins, is

obligated, according to Sanch., to give ten coins each time he plays; because the penalty is an accessory to the act. However, Laym. seems to deny this, book 4, treatise 4, chapter 5, number 4. See Trull., Diana, page 5, volume 9, rule 60.

Salm., chapter 1, number 177, makes a good distinction. If the vow was a simple one to pay a penalty if he plays, then it is sufficient to pay the penalty for the first time; as held by Sanch., Bon., Sa, and Diana. And Laym. and Pal. consider this to be highly probable. Otherwise, if the vow was twofold, namely, not to play and to pay a penalty: then, each time he transgresses the vow, the penalty must be paid; unless this penalty is very severe, such as a pilgrimage or a large donation.

[*Latin ed. p. 322*]

Concerning alms, which are not commonly repeated. Thus, Salm. ibid., with Laym., Pal., Trull., Dian., etc. It must be noted that in a vow with a double penalty, if the first is relaxed, the second is also relaxed, as it is an accessory to the first. Salm., chapter 1, paragraph 176, with Pal., Laym., Sanch., etc. Furthermore, it must be noted that he who, through invincible ignorance, or forgetfulness, is unaware of the principal vow or the vow concerning the penalty, is not bound by it. See Salm. ibid., paragraphs 175 and 177, and 224. Several other things must also be noted here. And 1st, that vows are always to be interpreted according to the more benign meaning. Salm., chapter 1, paragraph 148, with Laym., Caj., and others. It must be noted 2nd, that fractions of vows are of the same species: hence, if someone who has vowed chastity commits fornication, he can separately confess the breaking of the fraction of the vow. Salm., chapter 1, paragraph 101. But what if someone vows fasting for a special reason of temperance? Val., Sanch., Bon., etc., apud Salm., paragraph 102, hold that it is probable that two sins are committed by breaking the fast; thus, likewise, they say that someone who vows chastity to their spouse for the reason of love for chastity, if they ask for the marital debt, commits two sins. But it is more probable, with Salm. and Caj., Trull., Suar., and Prad., that such a person commits only one mortal sin against the vow; because from the vow arises only an obligation of fidelity to God.

[*Latin ed. p. 323*]

They impose it upon themselves, and not upon another. Note 3. It must be observed that if anyone vows a disjunctive good, bad, or vain, or impossible thing, the vow is null. Salm. c. 1, n. 141. However, if both parts are suitable matter, the part that is chosen must be performed, even if, after the election, the other part perishes, or becomes impossible. Conversely, if one part perishes, or becomes impossible, before the election, one is not bound to the other, unless the thing perishes through one's own fault, or one has been negligent in delivering it, or in determining it. Thus, Salm. dict. n. 141

and 142, with Sanch., Pal., Mol., etc.

The question arises here whether one who has already chosen one part can share the other with another. Pal. and Sanch., with others, probably deny this, according to Salm. de voto, c. 3, n. 107. Therefore, if the chosen part is one whose matter is reserved, such as chastity, etc., a papal dispensation is required. However, Leand. and Tamb., with many others, affirm this, and they rightly call it probable, according to Salm. ibid. The reason is that, although an election has been made, the vow still remains disjunctive, and the one making the vow has not, through the completion of the determination, deprived himself of the freedom to choose the other part.

He who vows to hear the sacred offices for a month is probably not bound to hear two on feast days; just as it is also probable that this is the case if it is imposed by a confessor for Potenza. Salm. c. 1, n.

[*Latin ed. p. 324*]

136. With Palatine, Tamburelli, Suarez, the Council of Trent, etc., see *Sponsa de II.*, chapter 2, paragraph 96, and *De Paenitentia*, paragraph 281. He who vows the Rosary fulfills the vow by reciting one-third of it; for this is generally understood. Psalm 1, verse 136, with Palatine, Tamburelli, Prato, etc. And he fulfills it by reciting alternately, because such a vow obligates like a divine duty. Psalm, ibid., with Trent, Tamburelli, Diana, Leander, etc. And he also fulfills it by dividing the decades. Ibid., with Sanchez, Trent, Bona, etc. He who vows fasting may eat dairy products, as Psalm 1, verse 137, states, with Sanchez and Palatine. If he vows fasting for a month, he is not bound by it on Sundays; or if he vows it on the eve of a saint's day that falls on a Sunday, he may anticipate the fast on Saturday. Ibid., with Bona, Trent, Diana, etc. If he who has vowed fasting eats meat, he is not bound by the fast; for the precepts regarding fasting differ from those imposed by the Church, which imposes both fasting and abstinence from meat, as stated in Psalm, ibid., with Sanchez, Azor, Silva, etc., and as declared by the reigning Pope Benedict XIV, Volume 4, paragraph 992. Whether he who has vowed fasting is bound by the vow on each Saturday if the Nativity of the Lord falls on that Saturday, Molin, Azor, Fag, Diana, Rodriguez, and Villalobos state, with Salm, chapter 1, verse 138, and Bona calls it a probable opinion regarding the vow.

[*Latin ed. p. 325*]

p. 6, no. 9, and Tamb. on vows, § 6, no. 13. Unless he expressly intends, on that very day, to obligate himself, because in that case, without doubt, he is bound. However, Salm. argues, as is more probable, no. 139, with Suarez, Sanch., Vasquez, V., and the following will be said in no. 226. If someone performs the due act, whether it be a vow or a penance enjoined, he satisfies it well, through the general will which each person is considered

to have to satisfy his obligations first; thus, Spor. tract. 1. on conscience, no. 50, Sanch. decrees, book 1, chapter 14, no. 15, Less. book 2, chapter 37, no. 11, Laym. book 4, treatise 2, chapter 11, no. 9. But if someone is certain of the vow, yet has a probable reason that he has satisfied it, many authorities hold that the person making the vow is not bound; but we have already stated in the treatise on conscience that this opinion should not be followed, because the obligation of a certain vow is never satisfied by merely probable satisfaction.

FIFTH DOUBT. IN WHAT WAYS IS THE OBLIGATION OF A VOW REMOVED?

225. The obligation of a vow is removed: 1st, by a material change; 2nd, by human authority. See resolutions.

226. Is there an obligation to fulfill a vow if unforeseen circumstances arise? (Concerning simple vows of chastity and religious life, and concerning solemn vows, see l. 4, no. 50.)

225. R ESPONSE. It can be removed in two ways. 1st, without the intervention of any authority: and this occurs either...

[*Latin ed. p. 326*]

By a change of circumstances; as if a matter that was previously honest becomes dishonorable, or an impediment to a greater good, by reason of a new circumstance or prohibition, or if it becomes absolutely or morally impossible; or by the cessation of the condition upon which it depended. 2.º By the intervention of human authority, and this in three ways: by irritation, by commutation, or by dispensation, concerning which matters there will be doubts in the following sections. This is a common opinion. Sanchez, book 4, chapter 24; Lessius, book 2, chapter 24; Suarez, volume 26, chapter 8. "Therefore, it is resolved: 1.º Although, through your fault, a matter has become impossible or useless, nevertheless, once it has become so, the obligation ceases, and it suffices to repent of the fault. 2.º If the obligation of two vows occurs which are incompatible, that which is more pleasing to God and more excellent must be fulfilled, and the other ceases. But if they are equal, or if you do not know which is better, that which you vowed first must be fulfilled, and the latter is nullified; if you do not know this either, you are free to choose. See Trallianus, book 2, chapter 2, paragraph 9. 3.º If the matter of a vow becomes impossible only in part, then, if this matter cannot be conveniently divided, or is not usually divided, you are excused; for example, if you vowed to build a temple, and the whole cannot be built, you are not obligated to build a part."

[*Latin ed. p. 327*]

4.º If, however, it can be conveniently divided, and it is customary to do

so, the obligation remains for that part which is possible, as for example: 1.º He who cannot fast for the entire week, can fast for some days, and is bound to do so. 2.º He who has contracted and consummated marriage after making a vow of chastity, is bound not to demand the marital debt: since, up to that point, the vow is still possible (for he must render it). See Bonaventure, *De Obligationibus*, part 7, chapter 1.

5.º If the vow can indeed be divided, but one part of it is principal, while the rest are merely accessory, not intended separately in themselves, but dependent on the former, as if they were appendices and modes of it, then if the principal part becomes impossible, the obligation of the accessory part also ceases, and not the other way around. For example, you vowed to make a pilgrimage to Rome wearing a cilice and to offer something specific there; if the pilgrimage becomes impossible, you are not bound to wear the cilice or to send the offering. See Sanchez, book 4, chapter 10; Bonaventure, *De Obligationibus*, book 4, chapter 2, part 4, paragraph 4; and the Council of Trull, book 2, chapter 1, decree 10.

226. Here the question is raised: Is there an obligation to fulfill a vow if a notable circumstance arises, which, had it been foreseen, would have prevented the person from making the vow? The common opinion, found in Salmeron, *Tractatus de Juramentis*, book 3, number 20, along with Sanchez, Palafox, the Council of Trull, etc. (see note 187, but see also the doubt), is that in every promise, as is also the case with a vow, a change in the matter itself...

[*Latin ed. p. 328*]

A notable circumstance annuls the obligation. The reason is that, through a change, something becomes different than what was promised. But what if a new circumstance arises that was not foreseen, for example, if someone vowed to fast on all the sixth days of the week? Would they be bound to fast on the day of the Nativity of Our Lord, a day they would have excluded if they had foreseen it? Salm. de III. præc. c. 2. n. 104, along with Nav., Vasq., Silv., and others, agree with Sanch. dec. lib. 4. c. 11. n. 61. (But it should be noted that Sanch. in this place speaks of a specific case of fasting, because he believes that the circumstance of a feast does not effect a notable change; but concerning our question, he holds the opposite opinion, as will be seen below). The reason, as they say, is that, in order to exempt the one who made the vow from the obligation of the vow, one must not consider what he would have promised if he had remembered, but rather what he actually promised. And they prove this from c. Explicari, de obs. jejun., where Honorius III. said: "Those who are not bound by a vow or by a regular observance, on a Friday, if the feast of the Nativity of the Lord happens to fall on that very day, may eat meat because of the excellence of the feast, according to the general custom of the Church." However, Mol. t. 2. de just. disp. 272, Azor. 1. p. lib. 11. c. 2.

q. 3, and also Fag., Dian., and others, apud Salm. l. c. de III. præc. n. 103, speak of the aforementioned case of fasting (see also the remarks in n. 224, at the end), and disagree.

[*Latin ed. p. 329*]

And speaking generally of any new and noteworthy circumstance arising, St. Antoninus, Navarrus, Silvestrus, Henricus, etc., hold in their commentaries, as mentioned above in the section on jurisprudence, chapter 3, paragraph 21. And this opinion is expressly held by Dominicus de Thoma in the fourth distinction, question 1, article 3, ad 1, where he teaches thus: "That which liberates from the obligation of a vow or oath is that which, if it had been known from the beginning, would have prevented its being made. The reason is because, in such a case, the intention to obligate oneself is either lacking or is understood in such a way." To this opinion, they say ibid., Salmeron, paragraph 22, that its probability cannot be denied; indeed, Salmeron himself, chapter 1, paragraph 152, considers it to be a noteworthy change which, if known from the beginning, would certainly have prevented one from making the vow. This second opinion seems to me no less probable, indeed, perhaps even more probable than the first. The general reason is that, when a circumstance arises which was not foreseen and which makes the vow more onerous, the matter of the vow becomes different from what was promised. And thus, the objection is answered, that the one making the vow would be bound to something more than what was promised. It is also answered to the definition of Honorius III, as mentioned above, that there the Pope does not explain whether the circumstance of the Nativity of the Lord was foreseen or not; therefore, the text can be understood (as Azorín understands it in the cited passage) to refer to those who expressly vowed to observe the fast even on the day of Christmas, in which case they are certainly bound by the vow, as we said in paragraph 224, near the end.

[*Latin ed. p. 330*]

DOUBT OF SEXTUM. CONCERNING THE NULLIFICATION OF VOWS. ARTICLE FIRST. WHETHER AND HOW THE OBLIGATION OF A VOW IS NULLIFIED BY DIRECT NULLIFICATION.

227. Who can nullify vows?

228. Is it permissible to nullify vows without a cause?

229. Which vows can a father, grandfather, tutor, etc., nullify concerning their children?

230. Which vows can a mother nullify?

231. Do the vows of a minor remain valid until they are nullified?

232. What if someone was mistakenly considered a father, husband, etc.?

233. Who can nullify the vows of religious and nuns? Can the abbess?

234. Can a husband nullify all the vows of his wife?

235. Can a wife nullify the vows of her husband?

236. What if they mutually vow chastity?

237. Can a superior nullify vows made before submission? What if it is doubtful whether they were made before or after submission?

238. Can vows made during the time of submission be nullified afterward?

239. What if the superior ratifies them?

240. Which vows of servants or slaves can be nullified by the master?

227. "In Response: Since no one should have their dominion violated, and every master can use his freedom, it follows that if the will of one person is subject to the dominating power of another,..."

[*Latin ed. p. 331*]

"The subject of this authority can, at his discretion, and without any cause, validly and directly annul all vows, whatever they may be; that is, he can will and declare that those vows are null, so that in no case will the obligation revive afterwards (and even if they sin, if they are annulled without cause, as Lessius teaches in book 2, chapter 40, paragraph 75, as well as Navarrus, Suarez, and Philippi). Furthermore, this right derives from positive law, by which someone is given legitimate and dominant power over the will of another. Thus, commonly, DD. V. Sanch. book 4, chapter 24, paragraphs 30 and 31 (but it also derives from natural law, as Salmeron teaches in chapter 3, paragraph 27, with Saint Thomas, 2-2, question 185, article 5)."

228. "Question: Is it permissible to annul vows without cause? Certainly, for the validity of the annulment, no cause is required: and it is commonly held that it is not a mortal sin, as Salmeron teaches in *de votis*, chapter 3, paragraph 29, and Lessius in book 2, chapter 40, paragraph 69, which seems certain to him, along with Paludanus, Silvestrius, and Augustinus. The question is whether it is venial. The first opinion affirms this, with Busenbaum, Lessius, etc.; because it is discordant for a superior to use this power without cause. But, speaking of itself, it is truer that there is no sin, because the vows of the subjects are emitted under the condition of the consent of the superiors; therefore, obedience suffices as a cause. Thus, Salmeron, paragraph 30, with Saint Antoninus, Cajetan, Silvestrius, Azorinus, Tamburrini, etc. I have said speaking of itself; because it will be difficult to excuse it from being venial, or because..."

[*Latin ed. p. 332*]

It constitutes an act of idleness, either because it unreasonably hinders the progress of another, as Lessius rightly states in the cited passage, number 70. However, any reasonable cause suffices to excuse [one] from a ve-

nial sin, as Elbing states in number 254, and others. And the same is held by Spotorno in *De II. præceptis*, number 34, along with Soto, Vallet, Medina, etc., that it is not a grave sin for a superior who has granted a permissive license and then revoked it; indeed, it is likely not even a venial sin, unless he has promised not to revoke it. However, the revocation of all vows is valid in general, even those pertaining to the future, and even if the subject is unwilling. Sahn, with Palafox, etc., number 34 and 35. Therefore, it is resolved: 1. Any father, and in his absence, the paternal grandfather, tutor, indeed even the mother, not only if she is a guardian, but also in the absence of the former, and, according to some, if all others are lacking, even a teacher or heir, as Suarez and Lessius state in *Disputationes de Obsequio*, number 78, against Sahn; can directly revoke the vows of minor children, as is gathered from *c. Mulier*, 32, question 2, chapter 1, and 22, question 1, and from *c. Si quis, de reg.*. "Puberty, according to the laws, ends in males upon the completion of the fourteenth year; in females upon the completion of the twelfth year, counted from the day of birth, as Sahn states in the cited passage, Layman in *Tractatus de Matrimonio*, volume 4, chapter 7, number 10, and Bonaventure in *Disputationes*, 4, question 2, page 6, § 2." 229. To explain each matter more clearly. The father,

[*Latin ed. p. 333*]

Either the paternal grandfather, in his absence, can annul any vows made by a minor, whether personal or real; including vows of chastity and religion, even if the son is capable of deceit, and even if the vow concerns property belonging to the Castrum, or something similar, as stated in Psalm 3, verse 45, according to St. Thomas [II-II, question 88, article 9], with Cajetan, Sanchez, Suarez, Truillet, Laity, Lessius, Palafox, etc., from chapters 1, 20, question 1, and 2. And the reason, as Sanchez states in book 4, chapter 18, paragraph 5, is because at such an age, perfect deliberation is lacking for such a significant obligation. Therefore, nature has foreseen this deficiency by granting parents the power to annul such vows. However, if there is doubt as to whether the vow was made before or after puberty, the father can still annul it, because he possesses this power. Thus, Sanchez, Daniel, Michael with Elbing, number 251, who rightly states that the same should be said in the case of doubt whether the son, after reaching puberty, ratified the vow. However, parents cannot annul the personal vows of their minor children, such as vows of chastity, frequent reception of the sacraments, etc., unless it prejudices the domestic administration, such as vows of prolonged abstinence, pilgrimage, or fasting, which are incompatible with the way of family life, as stated by Salmeron, number 46, with St. Thomas, Lessius, Palafox, Silvestri, Tamburrini, etc. They can, however, annul (though indirectly, as Busenbaum with Laity states, article sequence, number 242) the real vows of minors at a younger age; because

at that age, they lack the administration of their own goods.

[*Latin ed. p. 334*]

Salm. ibid. 47. with St. Thomas, Sanchez, Trull. etc. Except if the vow is concerning a military estate, or something similar, or if the son has gone forth from paternal authority. Salm. n. 48. Also, a vow to go to Rome for the absolution of excommunication, from c. Relatum, concerning sentences of excommunication. However, the power which the father has over legitimate sons, he also has over illegitimate sons, as Sanchez, book 4, chapter 35, n. 82, with Pal. and Tamb., and this is common among Salm. dict. c. 3, n. 33, below. It must be noted here that what is said about the father, is also said about the tutor with respect to the ward, and about the curator with respect to the minor. And, if there are several tutors or curators, each one has the same power. Salm. c. 3, n. 49, with Suar., Sanchez, Bon., Trull. 230. The question is whether the mother can annul the vows of her children. If the mother is designated as tutor or curator, certainly she can, just as tutors and others, as mentioned above, can. But what if she is not designated as such, and the son lacks a father or paternal grandfather? Sanchez, Suar., Pal. etc., apud Salm. c. 3, n. 50, believe that in that case, the son is under his own jurisdiction: but the opposite is more likely, namely that in that case, it falls to the mother to be the curator, as is more likely held by Salm. ibid. with Tamb., Prad., Leand.; because it is reasonable that the mother or grandmother should provide for the minor, and therefore she can rightly, as curator, annul their vows.

[*Latin ed. p. 335*]

But there is more doubt as to whether a mother, in the presence of the father or guardian, can annul the vows of her children. There are two probable opinions. The first opinion denies this, stating that, only when the father and guardian are absent, can the mother annul the vows of minors, and, when the mother is absent, the same can be done by the grandfather and grandmother on the mother's side. Thus Suar., Sanch., Tamb., Laym., Pal., Trall., Bon., etc., according to Salm., chapter 4, paragraph 51. The second opinion, no less probable, as rightly say Salm., paragraph 52 (which is held by Prad., Philiarch., and Ronc., *de voto*, chapter 5, question 3, response 3), asserts that the mother, even in the presence of the father or guardian, can annul all the vows of minors; even those of chastity and religion, and even the personal vows of adults which prejudice the governance of the household; but not real vows, the administration of which belongs to the father or guardian. The reason is that such power, here not civilly, but naturally, also exists in the mother, to whom the children are bound to obey, although with subordination to the father: so that the father can annul the vows of his children, even against the will of the mother; but not so the mother, against the will of the father. And this is proven from St. Thomas,

Summa Theologica, part 17, chapter 13, article 10, who grants to parents the faculty of annulling the vows of their children without distinction.

231. Question: Furthermore, are the vows of children and other dependents, such as religious, servants, etc., as mentioned below, valid until they are annulled, in matters concerning the commands of their superiors?

[*Latin ed. p. 336*]

They do not prejudice the jurisdiction. The first opinion states that, and therefore it does not require relaxation, if it was issued without the consent of superiors; because such subjects lack the use of their will, the dominion of which belongs to the superiors. Thus, Vallet, Angelus, Marchius, Riccius, Rosellus, and others; and Leander, Torres, and Peyrere, apud Salmeron, chapter 1, number 182, call it probable. They claim that St. Thomas supports them in *Summa Theologica* 2-2, question 88, article 8, ad 3, who says: "No vow of a religious person is firm without the consent of the prelate," and he says the same about the vow of a wife, etc. However, the second opinion is more probable, and they say that it should be held absolutely, as Salmeron states ibid. number 183, along with Cajetan, Navarrus, Tamburis, Palatinus, Trullius, Fillius, Azorius, Sanchius, Suarius, and many others, affirming that such vows are valid, whether they are real or personal, unless they are annulled; because subjects truly do not lack will, but they must subject their will to the will of their superiors, if it contradicts. And thus, St. Thomas should be understood in the place cited, who teaches nothing other than that such a vow is not firm; because, as he says in response to 1 and 4, "In their vow, the proper condition is understood—if it pleases their superiors, or if they do not hesitate." Therefore, it is sufficient that they do not hesitate, so that the condition of the vow is fulfilled, and the vow is firm. 232. Finally, the question arises here: whether, if someone was considered, through a common error, to have a title...

[*Latin ed. p. 337*]

A prelate, a husband, a father, etc., may, by a valid act, annul the vows made by them, just as acts of jurisdiction are valid acts according to the law of Barbarius, in the sections concerning the office of a prelate. Sanchez, Bonaventure, Trullius, Palearius, and others, as cited by Salm, chapter 3, paragraph 71, deny this, because the act of dominion differs from the act of jurisdiction. However, Salm, in the same place, along with Prado, considers the contrary to be probable, because the same principle applies in both cases.

253. 2. The vows of religious [persons] (whatever they may be, even internal ones, as Salm, paragraph 27, with Soto, Sanchez, Layman, and Roncaglia, question 2, because the religious person has transferred their entire will and unwillingness to the prelate) (although not those of novices, although the personal vows of novices are suspended; see

Salm, chapter 3, paragraphs 42 and 43) can also directly annul vows previously made, besides the Pope (the Pope can indeed directly annul all the vows of religious; and the bishop, the vows of nuns subject to him. Salm, paragraph 33), abbots, guardians, priors, and rectors (even secondary prelates, in the absence of primary ones. Salm, paragraph 40); and probably also abbesses (as held by Suarez, book of questions, chapter on vows, paragraph 19, Regius, law 81, paragraph 242, Fillon, Bonaventure, in the cited place, paragraph 79). However, the vow of transferring to a stricter religious order is excepted. See Binsfeld, 3, encyclopedia, chapter 9, Lessius, paragraph 73, Sanchez, chapter 24, paragraph 3, Bonaventure, book 4. (This vow cannot be annulled even by the Pope. Salm, paragraph 38).

[*Latin ed. p. 338*]

234. 3.º Hoc idem potest, secundum Sanch. lib. 9. de matrim. d. 39., applicari ad virum respectu votorum uxoris; quamquam alii probabilius hoc limitant ad ea vota quae juri mariti praeiudicant. Laym. hic c. 7., Fill. tract. 26. c. 8. q. 8., Less. d. 19. n. 83. et d. 15. Sed probabilior, saltem extrinsecus, videtur sententia contraria, quod vir possit directe omnia vota uxoris irritare, licet non praeiudicant usui matrimonii vel prolis educationi vel gubernationi domesticae (ut tantum concedunt DD. contrariæ sententiæ ap. Salm. cap. 3. n. 57.). Et maxime probatur ex Numeris, c. 30, ubi dicitur: Si maritum habuerit et voverit aliquid, si audiens vir statim contradixerit et irritas fecerit pollicitationes ejus, propitius erit et Dominus. Quod non de solo voto abstinendiæ, sed de omni voto, interpretantur LXX interpretes. Et Sanctus Ambrosius apud Salm. n. 58, sic dicit: Evidentissime apparet ita virum esse caput nullius, ut nulla vota abstinentiæ vel religiosæ conversationis liceat sibi sine ejus licentia Deo offerre. Pariter Sanctus Thomas, 2. 2. q. 88. art. 8. ad 3., docet votum uxoris ita nullum esse sine consensu viri, sicut votum religiosi sine consensu prælati: Nullum votum religiosi (verba S. Thomae), nisi de consensu prælati; sicut nec votum puellae, nisi de consensu patris; nec uxoris,

[*Latin ed. p. 339*]

Unless it be with the consent of the husband. And the reason is, because it is very advantageous to the peace of the family, and to preserve the mutual love, that the wife should have a complete dependence on the will of the husband, and thus the impulses of the passions are restrained. Thus Sanchez, on Matrimony, book 1, title 39, number 4, with Soto, Sa, and Salm, in the cited passage, with Sanchez, Prado, Tamb, Dian, Rodr, Fag, Villal, Led, Leand, Arag, etc., against Spor, on Vows, chapter 3, number 27, with Nav, Silv, Azor, etc. But even these latter call the contrary opinion very probable, according to Salm, ibid. Hence, the husband can also annul the vows of chastity and religion that the wife has undertaken to fulfill after

the husband's death. Salm, number 59, with Soto, Arag, Leand, Fag, etc.: also Sanchez, in the cited passage, number 16, and in the discussion 40, number 17, with Pal, Led, and Vega, against Nav, Caj, etc., 235. Conversely, it should be noted that 1st, the wife cannot annul the vows of the husband, unless they are prejudicial to her, such as a vow of a long pilgrimage, great abstinence, wearing the habit of a hermit, and the like: Salm, with Bus, article sequence, number 242, in fine. And also, the vow of not requesting a debt, as Spor, in the cited passage, number 28, with Laym, Trull, Henr, Fag, etc., probably holds (against Less, Sanchez, Basil, etc.), according to Salm, number 56; because it would be very burdensome to the wife's modesty to always be compelled to request. These vows are commonly taught by the Doctors to be annulled; but rather they seem to be invalid, since...

[*Latin ed. p. 340*]

Concerning an unsuitable matter, as is felt by Salm. ibid. n. 55. 236. Note the following: 2º That if spouses, by mutual consent, vow chastity or religion, they cannot annul the vows against each other; because, in effect, each yields to the other's right. This is the common opinion. Thus Salm. with Sanch., Suar. etc. n. 56, and Bus. art. seq. n. 7, who rightly adds that it is otherwise if each, independently of the other, has made the vow. But see the statements in n. 239. See "What then?" These spouses, if after such a vow, mutually agreed upon, they revoke the pact and cohabit, although they do not sin against chastity, they nevertheless sin against the vow, unless they are excused by a very serious reason. Salm. n. 59, with Suar., Pal., Bon., Sanch. etc. 4º He who has once annulled a vow, if afterwards he does not wish to do so, it is not thereby made valid again, as Sa. states, see "Annulment of a vow." (Thus Salm. n. 70, with Soto, Sanch., Trull. against some). 5º None of the above can directly annul vows made before subjection, e.g., before marriage; but those made within the time of subjection concerning a matter to be performed after the time of subjection, e.g., in puberty or after the death of the husband, can annul them. Bon. loc. cit. (with Salm. c. 3. n. 74, Val., Dian., Tamb. etc. and Sanch. de matr. lib. g. d. 39. n. 16, with Sot. etc. See statements in n. 134.) "A man cannot directly annul..."

[*Latin ed. p. 341*]

A wife who has been dismissed before marriage, but who may well suspend the execution of such dismissal, to the extent that it prejudices her authority. *Psalm* 3, verse 35. With Sanchez, Valdés, Palafox, Suarez, etc. However, it is certain that the vows of religious persons are extinguished by their profession, as is stated in the chapter on vows in Scripture. See Elzévir, number 255, and Suarez, ibid., 6. It is taught by Salas, 1, 2, question 21, and by Caravallo, book 3, chapter 1, paragraph 1, that a vow about which there is doubt, whether it was made in a time of liberty or under subjection, cannot invalidate the authority of a superior. But Suarez, Sanchez, Bona, etc.,

with Bardesano, book 6, chapter 1, section 28, hold the contrary opinion.

257. Therefore, the question arises whether a husband or a prelate can directly invalidate the vows of a wife or a religious person, about which there is doubt whether they were made before or after subjection. Sanchez affirms this in *Decreta*, book 4, chapter 32, number 7, following Suarez (and others, as mentioned above). His reason is that, as he says, the present possession of the will of the subordinate is certain, since it is certain that she is a wife or that he is a religious person; but the exception regarding those vows is doubtful. Therefore, as long as the exception is not proven, namely, that the vows were made before subjection, the certain possession of the superior prevails. Just as a spouse who doubts the validity of the marriage is bound to give way to the other party's request, due to their certain possession, as is stated in the chapter on *Dominus*, concerning subsequent marriages. Thus Sanchez. But, see Liguri, *Theologia Moralis*, Volume III, page...

[*Latin ed. p. 342*]

With all due respect to so esteemed a Doctor, I hold a contrary opinion. I do not doubt (as We have said in n. 229) that the father can annul the vows of his son when there is doubt as to whether the son has attained the age of puberty, because in that case, the possession [of the son] stands in place of the father's authority, as We have said in n. 229. Conversely, I say that the opposite must be held true here, when the vows are certain, and the possession [of the man or prelate] is doubtful, because it is doubted whether the vows were made or not at the time when subjection had already begun. However, it is different in the case of a spouse requesting a dispensation; for there, he has certain possession over the entire body of the spouse who is doubtful, and from that possession, he has a certain right to use her. But it is otherwise in our case, in which the man or prelate does not have total possession over the will of the wife or religious. He does indeed have possession over the present will of the subject, but not over the past. And therefore, those mentioned above cannot directly annul vows about which there is doubt as to whether they are of a matter pertaining to the subject themselves. However, they can directly, according to what will be said in articles following, n. 241, 238, § 7º. Vows made during the time of subjection can still be annulled after that, for example, when the son has already reached the age of puberty. This is true, even if he ratified them while in the state of puberty, believing, through error, that they were firm; otherwise, if he knew them to be invalid and ratified them independently of the previous vows, as Lessius states in book 2, chapter 40, paragraph 19.

[*Latin ed. p. 343*]

"(and Elb. n. 252, with Spor., Tamb., etc.)". And this is the more probable opinion, namely, that vows made during a state of subjection can, even after

that state, be annulled by the father, as is held against others in Salm. cap. 3, n. 73, with Sanch., Suar., Trull., Caj., Bon., Pal., etc. Provided that the son does not confirm the vow in his majority; and, as Bus. adds, probably with Less., provided that he knows at that time that the vows were infirm. However, a father cannot annul the real vows of a son who has reached his majority, after he has become emancipated. Salm. dict. n. 74. Nor can a prelate annul the vows of a religious, if that religious is no longer subject to him; nor can a man annul the vows of his wife, after a formal divorce. See Salm. n. 72. 239. "8th. Those mentioned above can revoke and directly annul vows, even if they have once ratified them, because they have not deprived themselves of their own dominion and power. See Suar., de voto, lib. 6, c. 6: but if this is done without a reason, it will be a mortal sin, according to some; although, probably, Suar. in the aforementioned place, cap. 4, and Laym. here, deny this. It seems certain that superiors can validly annul the vows of their subordinates, even if those vows have been ratified, because the superiors, even if they wished, cannot take away from themselves the power of dominion that they have over their subordinates. Thus, generally, Sanch. dec., lib. 4, cap. 27, n. 9, Elb. de voto, n. 259, and Salm., cap. 3, n. 66, with...".

[*Latin ed. p. 344*]

Caj., Suar., Pal., Sayr., Trull., Prado, etc. And this holds not only for the father with respect to the son, and the prelate with respect to the religious, but also for the husband with respect to the wife, as is very probably held by Sanch. de matrim. lib. 9. d. 40. n. 17, with Sot., Led., Arag., and Vega; also Tamb. dec. lib. 3. cap. 16. §. 3. n. 48, and Salm. loc. cit. ex n. 64, with others cited (contrary to Elb. n. 259, and Spor. de II. præc. cap. 3. n. 32, etc.). The reason is that the husband has true and direct power to annul the wife's vows, even those of chastity and religion, as was said in n. 234. It is certain, however, that all those mentioned above, if they annul the vows of their subordinates without just cause, after those subordinates have positively approved them, sin both themselves and the subordinates who are requesting the dispensation. I said "if they have positively approved"; otherwise, it would be different, if they only permitted the subordinates to make or fulfill a promise made by a vow, as Salm. ibid. n. 69, with Sanch. and Pal. But it is doubtful whether they would sin gravely or lightly by annulling [the vows]. There are two probable opinions. The first asserts that it is a grave sin, according to Numbers 27:11, where it is said of the man who consents to the wife's vow and then annuls it: "He shall bear the iniquity of it." The reason is that, having given his consent, he is bound not to hinder the vow. Thus, Salm. n. 67, with Caj., Sanch., Laym., Led., etc. However, the

second opinion is perhaps more probable.

[*Latin ed. p. 345*]

He asserts that one sins lightly, if at all, when annulling a vow, provided that no scandal or contempt results; because the superior exercises his right, and by annulling the vow, he is not the cause of that violation, since the subject does not, at that time, violate the vow himself. Thus, Bus. holds this in *Hic*, Suar. lib. 6. cap. 4., Bon. p. 7. §. 2. n. 29., Sot. de just. lib. 7. quæst. 3. art. 1., Tamb. in the cited place, n. 37, and Trull., Pelliz., Dian., Peyr. in Sahm. n. 67. The same is held by Spor. in the cited place, n. 34, with Val., Med., and the common opinion. However, the same Spor. n. 32, and Less. lib. 2. cap. 40. n. 95, and Elb. n. 258, with Laym., except from this the man who, with his positive consent, approved the wife's vow, especially if it were a vow of chastity; because then (they say) he has already relinquished his own right; therefore, he cannot validly annul it, and if he does annul it, he would sin gravely. But these authors speak according to the opinion they hold, namely, that a husband can only annul the vows of his wife through indirect power. They argue that there is a difference between a superior with respect to a religious and a husband with respect to his wife, because the superior, when he has the power to directly annul, cannot renounce his right; but the husband, to whom only indirect power pertains, can. But, according to the aforementioned opinion, as stated in n. 234, we say, with St. Thomas, that the husband has the same dominative power over his wife that the superior has over a religious, and therefore...

[*Latin ed. p. 346*]

As a prelate cannot take away his daughter from herself, so neither can a husband with respect to his wife. Hence, it appears sufficiently probable, according to what was stated above in Tamb. loc. cit. n. 53, that a husband, without just cause, annulling his wife's vow of chastity, even after having positively approved it, does not sin more than venially. But what if the spouses, by mutual consent, have vowed chastity? Certainly, in that case, the husband remains bound by his own vow, which the wife cannot, indeed, annul. Thus also says Sanc. d. d. 40, n. 26: nor can a husband annul the vow of his wife, and Salm. n. 59, and others, agree. However, I do not find a certain reason by which I can condemn Pal. and others apud Sanch. l. cit. n. 19, who contradict; for, if a husband (as Sanch. himself concedes, as we have seen) can validly annul his wife's vow, with her approval, why not, Pal. argues, if, by mutual consent, he himself has also vowed chastity? Nevertheless, since this opinion is contrary to the common opinion, and Tamb. has left this difficulty with an undecided doubt, so too I remit the matter to the wise to decide.

9. A prelate can annul the vow of a subject confirmed by a predecessor of equal or lower rank, but not by a superior. See concerning this Bon. loc. cit.

§. 3, Laym. c. 7. (And this validly and licitly; Salm. with Sanch., Pal., Suar., Tamb. etc.).

[*Latin ed. p. 347*]

240. If we speak of slaves, the master can annul any real vows made by them, unless those vows pertain to something of their own, and personal vows that are prejudicial to the master, such as vows of religious orders, of long pilgrimages, etc.; but not vows of chastity, of moderate prayer, or of fasting, etc. Thus, Psalm 3, verses 62 and 63, and others. However, the vows of servants cannot be annulled by their master, but only suspended for the time of their servitude, to the extent that they are prejudicial to their proper duties. Salm. dict. n. 63, with Sanchez, Suarez, and Bona.

ARTICLE SECOND. WHO CAN INVALIDATE VOWS INDIRECTLY.

241. "RESPONSE: If to someone, not the will of the person making the vow, but the subject matter of the vow is subject, so that he has a right to it, that person can invalidate such a vow through indirect invalidation; that is, by suspending its obligation to the extent that it prejudices his own right: and this is according to the law of nature, which teaches that no one can promise something to another to the prejudice of a third. St. Thomas, in 4 d. 38, Suarez, Lessius, loc. cit."

Therefore, it is resolved:

242. "1.º Besides those mentioned above, the father can invalidate the vows of his adult children, as long as they remain in the paternal home.

[*Latin ed. p. 348*]

"Nor are they emancipated: likewise, a tutor retains authority over a minor until the age of twenty-five, in matters pertaining to his office. Laym. c. 7. (V. art. 1. antec. n. 229.)"

"2.º Also, the wife with respect to her husband; for example, if she vows a longer journey, to live elsewhere, or to sleep separately; these things detract from the social life and the use of the dominion which she has over her husband's body. Less. n. 83., Fill. n. 273. (V. sup. a. 1. n. 235.)"

"3.º Also, the master and mistress with respect to their servants, as if they vowed a fast, by which they would become unfit for their duties to the master: such a vow is not of chastity or a brief prayer. Less. n. 86."

"4.º Also, not only the Pope with respect to all the faithful, but also bishops and princes with respect to their subjects, when the matter prejudices them. Finally, superiors with respect to novices in matters that impede the novices' exercises. Less. d. 13. n. 8."

"5.º Vows regarding matters otherwise prohibited cannot be indirectly annulled, for example, a vow not to steal; because they prejudice no one. Also, vows are not to be fulfilled when the matter of the vow is no longer

subject to it: for example, the vows of a slave are to be fulfilled when he is freed, and the vows of a spouse when the other is dead. (But it is more probable that this is denied with regard to the husband concerning the vows of his wife, as mentioned above, art. 1. antec. n. 234.)"

[*Latin ed. p. 349*]

6. One can also indirectly annul vows made long before the matter to which they pertain was presented; for example, vows made by a spouse long before the marriage. (Salm. c. 3, n. 75, as above, n. 237).

7. One can also indirectly annul vows that have been granted and confirmed by oneself or by a predecessor, as is evident from the preceding article. However, this exception does not apply unless one has relinquished one's own right and the subordinate has accepted this concession, as, for example, in a vow of chastity made by mutual consent of husband and wife. Otherwise, it would be different if either the wife alone, or both independently of each other, had made the vow. (See above, article 1, n. 239).

8. Vows that are only indirectly annulled revive and become binding again when the other party ceases to prejudice the matter. See Bonaventure on this point, page 7; Layman, chapter 8. (However, vows that are directly annulled never revive, as Elbing, n. 266, states, with Sanchez, Vallet, and Fillon).

SEVENTH DOUBT. WHAT IS THE COMMUTATION OF A VOW?

243. When can vows be commuted?

244. Can one commute a vow to oneself into a culinary work?

245. Is a commutation to a lesser degree valid without a just cause?

246. See other points to note.

247. Can one who has the power to do so commute to a somewhat lesser degree?

[*Latin ed. p. 350*]

248. After a commutation has been made, can the one who made the vow fulfill the vow through the first promise?

249. If something impossible has been substituted, is the one who made the vow obligated to fulfill the first promise? Will someone who, forgetting the vow, performs the work promised by the vow, be released from the vow?

243. "Response: A commutation is the substitution of another good work in place of that which was promised by the vow, under the same obligation. Regarding this, the following rules are given, so that it may be done lawfully. The first: for a commutation of a vow, ecclesiastical authority is required: 1st, when the commutation is for a slightly lesser good; if it is

notably lesser, it is called a dispensation; 2nd, when there is doubt about the equality of the goods (as in Psalm, chapter 3, paragraph 130); 3rd, when it is done for an equal good; although some might then think that one's own authority is sufficient; however, this is sufficient only for a commutation for the better, because the better contains less. (This is common with Psalm, paragraph 132, except for reserved vows). I call 'better' that which is more conducive to the spiritual benefit of the one making the vow and is more pleasing to God (as in Psalm, paragraph 142). It is safer to make a commutation regarding the frequency of the sacraments: Sanch., Tamb., Bardi, Bass. cited in Psalm, in the same place."

244. Question: Can a vow be changed by one's own authority into a work evidently equal? There are two opinions on this matter. The first, which is more probable, denies this, based on St. Thomas, in the 4th distinction, 38th question, 1st article.

[*Latin ed. p. 351*]

Art. 4, Q. 4, which presents the reasoning: Because commutation is a certain contract which cannot be perfected without the consent of he who acts in the place of God on earth, namely, the prelate. Furthermore, because, assuming a promise has been made, it is considered more pleasing to God that the one making the vow be faithful to Him by fulfilling the promised thing, rather than offering something else of equal value. Thus, Sanchez, in *decretis*, where, although in book 3, chapter 19, number 9, *in fine*, and in book 4, chapter 5, number 28, he seemed to hold the contrary opinion, he retracts it in book 4, chapter 49, numbers 12 and 21, along with Cajetan, Covarrubias, Soto, Azorín, Suárez, Palencia, Leander, Laym, Fillón, Rega, etc., as well as Salmerón, chapter 3, number 134. With this opinion established, others say that such a commutation is only a venial sin, as Sanchez, Ledo, Dian, Mendoza, and others state, according to Salmerón, number 135; because, as they say, it would be a slight infidelity. Therefore, if the material already exchanged has been given, it suffices that the one making the vow make amends for it. And the same is asserted if the material given has been less than what was promised. However, others hold that it is a grave sin, as Salmerón states, along with Palencia, Suárez, Azorín, Prado, etc., because, since such a commutation, as being invalid, is of no effect, no consideration is to be given to it. See numbers following, 245. However, the second opinion, which Salmerón calls sufficiently probable, in the same place, number 133, and which Elói holds, number 304, as well as Henry, Medina, and Major, according to Sanchez, in the same place, and also Tamburello, in *decretis*, book 3.

[*Latin ed. p. 352*]

Chapter ibid., § 3, no. 14. While Sanchez, Rodriguez, Bona, Fagius, Diana, Villalobos, and it is probable Suarez, Aragon at Sanchez and Trull,

Lessius, etc., at Salm, ibid., affirm that it is permitted for each to change his vow when the work is evidently equal. The reason is that it is presumed that God equally accepts a work, in substance, that is equal, due to divine goodness, at least so that a pleasing offering may be presented to Him; with this presumption established, the reason for the promise, as mentioned above, ceases to be valid. However, the doctrine and reason presented by St. Thomas are to be understood concerning a lesser work; otherwise, even a change to something evidently better would not be valid, which the common opinion does not doubt, even if the matter is different, as Salm, chapter 3, no. 132, states with Sanchez, Azor, Valpo, Suarez, Laym, and others against a few, and it is proven from chapter *Super his, de voto*. Furthermore, the first opinions of the Doctors agree that, if the matter is certainly equal and probably or doubtfully better, then the change is rightly made by one's own authority. Thus, Salm, chapter 3, no. 134, at the end, agrees with Sanchez, Suarez, Palotti, etc., because in that case the matter is always morally better, as Salm, ibid., no. 144, states at the end. But, despite these things, I believe that one should not depart from the first opinion. For the reason presented by St. Thomas is very compelling: at least that reason concludes in favor of an equal work. Second rule: Concerning the change of a vow.

[*Latin ed. p. 353*]

"In equal cases, a reason is required, although it may be less weighty than that required for a dispensation; for a dispensation completely releases from the obligation of a vow, whereas a commutation substitutes one thing for another. Therefore, if the commutation is made for the better, no reason is required; if it is equal in value to the authority of the superior, it suffices that there is a greater inclination towards it (as stated in Salm. n. 145, with Laym., Caj., etc., or a lesser danger of transgressing; as stated in Elb. n. 306, with Sanch., Pal., and Croix.); but if there is doubt as to whether it is equal, a notable inconvenience in fulfilling the original obligation suffices. See Less. lib. 2. cap. 40. " 245. "The question is, whether, if a commutation is made for the worse without a just cause, it is not only illicit, but also invalid. The first opinion, in agreement with Sanch. l. 4. cap. 51. n. 8, and Dian., Cand., etc., as cited in Salm. cap. 3. n. 147, and Tamb. de voto §. 5. n. 9, states that it is valid, provided that the defect is made up; for if there is a greater obligation towards men than there is to make up the deficiency, then there is certainly a greater obligation towards God, with whom one must act more leniently. This is consistent with the second opinion mentioned above in n. 244. The second opinion, however, states that it is invalid, just as it teaches that a dispensation without a just cause is invalid, as St. Thomas teaches in 2. 2. quæst. 88. art. 12. The reason is that the prelate cannot exceed the power that he has received from God, namely, to make commutations only with a just cause. Thus, Salm. n. 148,

with Mar., Pal., Trull., etc."

[*Latin ed. p. 354*]

Both options are probable. However, concerning whether the reason for the change is sufficient or not, Saint Thomas [Aquinas] teaches in *Summa Theologica*, 2-2, question 88, article 12, ad 2, that the one making a vow can acquiesce to the judgment of the one who is changing it. Therefore, it is resolved: 246. b r. ° Although prayer is absolutely better than fasting, it is not permissible to change it to fasting by one's own authority; because here and now, fasting may be more pleasing to God, as it may be more useful for the spiritual good of this person. Less. d. 16., Sanch. cap. 56. (John asserts in *Instructio* etc., that one confession or Communion is equivalent to the entire Rosary for the whole week. But, generally speaking, this is not the case.) 2. ° All personal vows can be changed into a vow of religious life by one's own authority; indeed, by the very nature of the thing, all real vows are thus changed into a profession. (Thus, Saint Thomas, according to Salm., chapter 3, note 129.) 3. ° He who has a vow of religious life cannot change it by his own authority into the acceptance of the episcopate; firstly, because this does not make the person more perfect than religious life, although it may be considered more perfect; secondly, because it is not certain that it is more pleasing to God here and now; thirdly, because Innocent III responded in this way, according to Bonaventure, in II, *praec.*, d. 4, question 2, page 7. The same is taught by Less., book 2, chapter 4, d.

[*Latin ed. p. 355*]

16. art. 103., Azor., Sanch., Laym. lib. 4. tom. 5. cap. 6. n. 15., Pal. disp. 3. tom. 16. n. 2., Fag., Dian. p. 6. tom. 6. resp. 62. ». 4. b. He who has the power to grant dispensations (even a delegated power, as Laym., Less., Pal., and Suar. with Salm. rightly state in cap. 3. n. 81, against Nav., Sanch., etc.) also has the power to make substitutions; however, not in opposition to [the original obligation], because substitution is a part of dispensation; but he who can do the greater, can also do the lesser. He, however, who has only the power to make substitutions, cannot change [the obligation] except for an equal one: which must be estimated morally and without scruple, as Laym. notes in cap. 8. In this estimation, says Caj., the accompanying circumstances must not be overlooked; for example, in the case of a vow of pilgrimage, consideration must be given not only to the labor, but also to the expenses that have already been incurred. Suar., Less. V. Bon. p. 7. §. 3. (from c. Magnæ, on vows). ». 247. Question: Whether he who has only the power to make substitutions, can substitute for another obligation something slightly lesser. The first opinion (which Salm. rightly calls sufficiently probable in cap. 3. n. 138) affirms, provided the excess is not significant. The reason is that, if the power of substitution were not of this nature, it would be subject to many anxieties, and therefore would

be useless, since it is very difficult to find equality in the matter being substituted. Furthermore, since it is probable that a substitution can be made with one's own authority for an equal obligation,

[*Latin ed. p. 356*]

It should also be probable that, having the power to change, one can change to something less; otherwise, the power itself would be ineffectual. Thus, say Sa, Bon., Trull., Dian., Leand., Medin.: and Lessius calls it probable, *apud* Salm., *dict.* n. 138. The second opinion holds that the change should be made to something equal, but with a moral equality, not a mathematical one, so that a small difference is believed to exist, and no excess is manifestly apparent. Thus, Salm., n. 139, *cum* Caj., Pal., Suar., *etc.*, *cum* Bus., here and Laym. And this opinion truly harmonizes with the first. It should be noted here that it is rightly possible to change a personal act into a real one, and vice versa, and a perpetual one into a temporal one. Salm., c. 3, n. 140, *cum* Lessius, Suar., Laym., Pal., *etc.*. Furthermore, Elb., n. 308, at the end, *cum* Gob. and Tamb., advises confessors to try to substitute such acts with those which seem more useful to the penitent and are not too difficult. 248. » 5.º If he whose vow has been changed later desires to fulfill the first, he can: either because it is better or equal, or because it was done in his favor, with the tacit condition that, if it pleases him. Lessius, n. 97, Sanch., Fill., n. 28g. ». If the vow has been changed to something less or equal, it is undoubtedly possible to still choose the first act. This is commonly held by Salm., c. 3.

[*Latin ed. p. 357*]

167. According to Sanchez, Palotti, Suarez, etc., it is doubtful whether a change made is for the better, or whether it is known and accepted. Then Suarez, Filliu, Regius, etc., according to Salm, number 68, deny that the one making the vow can return to the original. But it is more probable that they generally concede this. Lessius, book 2, chapter 40, number 111; Sanchez, book 4, chapter 35, number 26; Elbing, number 318; and Salm, number 169, with Layman, Bonaventure, Palotti, Tamburrini, Dian, Trull, etc., because the change is made in favor of the one making the vow. Sanchez, with Suarez, number 27, excepts only if such a change were made deliberately and for the greater glory of God. But Salm, number 170, with Palotti, Pradell, and Villalonga, more truly say that such a change does not obligate, at least not under a grave obligation, unless a new vow is made; because whatever is proposed does not obligate, unless there is an intervening promise and the intention of obligating oneself, as St. Thomas teaches, 2-2, question 88, article 1, ad 2. From all of this, it is inferred that the one making the vow, even if he returns to the original work, can nevertheless return again to the substituted work. Furthermore, if the change has been made several times to different works, the one making the vow can choose

whichever he prefers. Salm, ibid., number 169, at the end, and 171, with Trull, Dian, and Villalonga. If, however, someone, after accepting the substituted thing, again vows the changed thing; then he is bound to perform both, if he intends to obligate himself with a new bond of the vow. In case of doubt,

[*Latin ed. p. 358*]

It is presumed that he who has made a new vow is bound by it, according to Trull. and Bon. However, Salm. n. 171, considers it also probable that the opposite is true, and that he is therefore only bound with respect to the matter that has been changed. And this seems more probable to me, because a doubtful vow does not obligate, according to what is said in book 1, n. 61, 249. "6." If, where a change of matter or work is legitimately made by a superior, the matter becomes impossible or indifferent, he is not bound to return to the former, because the obligation is extinguished. See Laym., Bon. ll. cc. "After the change of the vow has been made, even if the substituted thing becomes impossible through the fault of the one who made the vow, or if he does not fulfill it, he is not bound to the first: for example, if fasting is substituted for alms on a certain day; if then you were unable or unwilling to fast, you have sinned, but you are not bound to give alms; because by the change, the first obligation is extinguished. Thus Sanch. lib. 4. cap. 56. n. 15. and Salm. cap. 3. n. 65. with Laym., Pal., Trall., Suar. and Elb. n. 318. and Spor. cap. 3. n. 136. with communiss. However, this does not apply if the change is made by one's own authority: then, if the second is not fulfilled, the first must be fulfilled; because the first obligation is not extinguished then, but is satisfied by the superabundant or at least equivalent fulfillment, as above; and this is certain. Salm. n. 166. with Tamb., Leand. etc.

[*Latin ed. p. 359*]

Finally, to complete this doubt, it is asked: 1st, whether he who has the power to change the vows of others, also has it for himself. Answer: Affirmative, as is taught by the common opinion of Sanchez concerning marriage, book 8, chapter 3, number 8, and by G. de Ecclesiasticis Decreis, book 4, chapter 18, numbers 42 and 45, and by Bona, page 7, section 4, number 31. Thus, Salm, chapter 3, number 128, with Tamb., Suar., Trull., Azor., Dian., Prad., Leand., Rodr., etc., and they prove it from St. Thomas, 2-2, question 18, article 8, where he teaches that a prelate can grant himself a dispensation. Question 2nd: Whether he who, forgetful of his vow, performs the promised work, is freed from the vow in the future. See the aforementioned number 204, near the end, and the aforementioned regarding reservations, number 700, question 2, see Limitations. DOUBT EIGHTH: WHAT IS A DISPENSATION, AND WHO CAN GRANT A DISPENSATION IN VOWS? 250. What reason is required to grant a dispensation? 251. What

if a dispensation has been granted in good faith, but without a reason? What if it is doubtful whether a reason was present? 252. What reasons are sufficient to grant a dispensation? 253. Is imperfect deliberation or freedom sufficient? 254. See the following points to note. 255. Can a vow made for the benefit of a third party be dispensed? And what about the vow and oath of perseverance, which are made in certain congregations? 256. Who can grant dispensations? Can the Pope grant dispensations in solemn vows? Can bishops grant dispensations in simple vows?

[*Latin ed. p. 360*]

they may delegate the power to dispense. Whether those who have the power are able to dispense with themselves. 257. Whether regular prelates can dispense in all vows of religious: whether in the case of novices: whether in the case of seculars. 258. More notable things concerning reserved vows. 259. Whether a violation of chastity or of religious life is reserved as a vow. 260. Whether, when a reserved vow is changed, the substituted matter is also reserved. 261. Whether conditional or penal vows of chastity and religious life are also reserved. 262. Whether pilgrims can be dispensed by the local bishop from common vows and laws. Reference to book 1, number 123. 250. R ESP. 1. o Dispensation is the absolute remission of the obligation of a vow, made in the name of God. For this to be valid, a just cause is required: such as, for example, 1. o The good of the Church, or of the commonwealth (and also of the family, or a greater advantage for the one who made the vow). Salm. c. 3. n. 125. with St. Thomas, Suar., Sanch.: and also in doubt: on this point, Pal. and Suar. ibid.). 2. o A notable difficulty in observing the vow. 3. o Imperfection of the act, or the lightness and ease from which the vow arose. Suar. loc. cit. c. 17., Fill. n. 260., Sanch. lib. 4. c. 25. V. Bon. p. 7. n. 47., Laym. c. 8. n. 5. (Hence, Innocent III. in the decree *Magnæ*, concerning vows, states that three things must be considered in dispensing from vows: 1. o What is permissible according to equity: 2. o What is permissible.

[*Latin ed. p. 361*]

According to honesty: 3. What is advantageous according to utility: from which Elb. states, no. 177, in *Sporus*, chapter 3, no. 43, that a dispensation should be granted in a vow when it would lead to the ruin or destruction of the soul due to perplexity; or when a greater benefit is hoped for. 251. Question: Does a dispensation hold here, if it is believed in good faith that there is a just cause, which in reality is not so? The first opinion, held by Bus. (lib. i, no. 3; ibid., at the end), Sanch. dec., l. 4, c. 44, no. 10, Less. lib. 2, c. 40, no. 119, Salm. *de voto*, tract. 17, cap. 3, no. 119, with Tamb. and Leand., and tract. 11, *de legib.*, cap. 5, no. 71, where Laym. is also cited, maintains that a dispensation is valid; but this is not correct, as we shall see below, because such a dispensation should be considered a divine will, so

that the consciences are not troubled, and so that the firm determinations of pastors may remain, as this seems necessary for the proper governance of souls. The second opinion, held by Pal. *de voto*, tract. 15, d. 2, p. 9, no. 4, with Basil. and Salas, contradicts this, and we follow this opinion, if it is later discovered that there was no cause, or that the cause was not sufficient; for the first opinion, although defended by so many learned Doctors, is opposed by a certain principle, which holds that a superior cannot validly dispense with something inferior without a sufficient cause. However, I believe it should be said differently, if it is doubtful whether a cause existed, or whether it was sufficient; in that case,

[*Latin ed. p. 362*]

For in cases of doubt, the presumption favors the validity of the dispensation; furthermore, in that circumstance, the reasoning behind the primary opinion holds true, namely, that matters would become excessively subject to scruples if individuals were to be compelled to inquire after obtaining a dispensation concerning its validity; and since this frequently occurs, it is rightly presumed that God considers that dispensation to be valid, in order to appease consciences and to ensure proper governance. However, when the nullity of the cause is certainly demonstrated, Pal. rightly states that God does not favor error, manifestly (whatever may be said by Dian. p. 1. tr. 10. r. 33.). And thus, Laym. truly speaks in tr. 4. de leg. cap. 22. n. 12., where he says that a dispensation can rightly be accepted until the truth appears to the contrary, citing Sot., Nav., Suar., etc. And Pal. agrees with us, stating that in a case where the cause is doubtful, the dispensation is presumed to be legitimate. See lib. 1. n. 146. It is also very probable, as Salm. states in de legib. cap. 5. n. 75, that a dispensation is valid, even if it was granted in bad faith by the one granting it, if a just cause truly existed, as we have said in lib. 1. de leg. n. 145, 252. It suffices as a cause for granting a dispensation that the danger of transgression exists due to a particular infirmity of the one making the vow, or due to the common frailty of human beings. It also suffices that there is great difficulty in execution, not only if...

[*Latin ed. p. 363*]

It was not foreseen, as say Sanchez, Paley, Suarez, but even if it was foreseen, as they believe in Salm. cap. 3, n. 124, with Leander and Tommaso; then because at that time the danger of transgression is also present; then because the matter is understood to be much more difficult while the execution is ongoing than when it is deliberated; and even if such difficulty arises from the weakness of the one making the vow, as Suarez, Paley, Layman, and Trull say, with Salm. ibid.; it is sufficient if the one making the vow is troubled by great scruples. Salm. ibid., with Sanchez, Trull, Fagius, and Tommaso 253. Furthermore, even if the danger of transgression is absent and there is great difficulty in the execution, it is sufficient as a reason that

the vow was made prematurely, that is, with undue ease, or from imperfect deliberation, or without perfect liberty; Sanchez, lib. 4, cap. 45, n. 28, and Cajetan, Paley, Suarez, etc., with Salm. c. 3, n. 121. For this reason, vows made by minors can, without any other cause, be absolutely dispensed with without any modification, as Sanchez ibid. n. 30, and Tommaso, Paley, Cajetan, Suarez, etc., with Salm. n. 125. The same must be said if the vow was made because of a slight fear instilled from without. Sanchez, n. 32, and Paley, with Salm. The same is true when imperfect deliberation or liberty in making the vow arose from sadness, or anger, or from an internal fear of shipwreck, or death, or some other evil; because then vows are often made prematurely, and therefore they can be.

[*Latin ed. p. 364*]

To dispense without alteration. However, if it should appear that mature deliberation was present at that time, then some alteration should be added to the dispensation. This also must be done if the cause that prompted the vow ceases. Thus, Salm., in the same number 23, with Pal., Sanch., and Tamb., 254. "1.º When the cause is not sufficient for a complete dispensation, it can be dispensed with in part, and altered in part. Bon., in the cited passage." 2.º "The prelate, seeing and (if it can be done easily) not contradicting, seems to dispense," says Sa." 3.º "The power also delegated to dispense in vows extends even to vows sworn and pious oaths made only to God. See Suar., book 6, on vows; Sanch., book 8, on marriage, doubt 4 (as we said above, number 190. Whether oaths of religion, chastity, etc., are reserved, as vows; both are probable, as we will say below, number 259, see Question 1)." 4.º "Before a vow is accepted by a certain person or church, it is not considered to have acquired a right to it, and therefore it can be dispensed with or altered without causing them harm." But here, the question of whether a vow that benefits a person can be dispensed with or altered without their consent must be discussed more fully. Answer: 1.º "If the vow has not yet been accepted by a third party, the common opinion is that it can be altered, as Elb., number 309, and..."

[*Latin ed. p. 365*]

Sanch. dec. lib. 4. cap. 41. n. 7. [with] Caj., Sa, Nav., Silv., Azor., Suar. etc., [even] if the promise was made not only to God, but also particularly to a specific person: for example, if the one making the vow said: "I promise, with a vow, to give something to this poor person, etc.," but the promise was not accepted, neither by that person nor by others in that person's name, as Sanch. adds ibid. n. 10 and 11, [with] Suar., Silv., Armill. etc. And even if the promise was made in honor of that saint or church, the acceptance of the rector of that church is required, so that the commutation cannot be made. Sanch. n. 12, [with] Caj. etc. Resp. 2.º [that] if the promise is made solely to God to give something to unspecified poor people, then

it can always be commuted, even if the promise is later made to a specific poor person and accepted by that person, as Sanch. ibid. n. 14, [with] Suar., Lugo de just. d. 29. n. 93, Tamb. lib. 2. cap. 7. §. 6. n. 3, [with] Pal. Resp. 3.º [that] if, conversely, the promise was made solely for the benefit of a person and was accepted, it cannot be revoked in any way without their consent, as we said above, c. 2, d. 7, n. 192, 255. A great doubt exists as to whether a vow principally made in honor of God, but secondarily or less principally also in favor of a specific third party, such as a particular church or poor person, can be commuted after it has been accepted by them, without their license. Theol. Mor. T. III. Q.

[*Latin ed. p. 366*]

By consensus. Elb. denies this in n. 309; Less. in book 2, chapter 40, n. 90; Sanch. ibid. n. 18; Salm. chapter 3, n. 156, with Suarez, Moya, etc. The reason is that at that time, the Church or the poor person acquires a right, with the simultaneous consideration being taken into account, for example, due to a special affection or the need of that person. However, others, as Spor. de I. præc. c. 3, n. 113, with Henr.; Viva de jubil. q. 12, a. i, n. 3; and Fag., Trull., Leand. apud Salm. n. 155, say that it is sufficiently probable that such a vow can be changed by the authority of the prelate or by oneself, even after acceptance. And this opinion is also held by Caj. (apud Sanch. ib. n. 27), who, speaking of the chapter "Licet, de regularibus," where it is stipulated that a professed religious, even if his prelate has accepted him, can pass to a better order, gives this reason: because he gave himself to religion for the sake of God, not for the sake of the prelate, and therefore he can change his vow by his own authority, even after acceptance, for the better. Nav. also agrees with him, apud Sanch. ibid., and says: "When someone has made a vow to give a certain amount to someone, even after it has been accepted, the Pope could change it; because that promise was not made primarily for the benefit of people, but for the worship of God." And what Nav. says about the Pope, the same can be said about other prelates, as Sanch. says.

[*Latin ed. p. 367*]

The reason presented, as stated by Fagius in his work *ad Tamb.*, book 3, chapter 17, section 2, number 15, is that these vows are primarily directed towards God as their ultimate end; and the poor person is only the proximate end, a secondary or accessory end, which should follow the primary end. Although the promise is made specifically to this poor person, it is made for the sake of God; therefore, God is the entire cause of the promise, and the poor person, by accident, receives something. If, however, the poor person has acquired any right, it is a right that is dependent on God's will, to whom the promise must be kept. It should also be noted here: 1. That such a simple promise made to a person, even if accepted, would not be binding under a grave obligation, according to the very probable opinion of

Salmeron in *de contr.*, chapter 4, number 82, along with Cajetan, Banna, etc., as we will explain more fully regarding contracts, page 720. 2. That what has been said about a vow applies also to a principal oath made primarily in honor of God, as Tamberus probably believes in his work, book 3, chapter 8, section 6, number 3, and chapter 17, section 2, number 15, along with Fagius, that it can be relaxed by the bishop without the consent of the party involved. But 3. It should be noted that this applies only to a free promise. Otherwise, something different must be said if the receiving party obligates themselves to something for the benefit of the promiser; for then, since there is an intervening...

[*Latin ed. p. 368*]

A burdensome contract, obligating both parties, cannot have its promise, and consequently its oath, be released to the one who made the promise, unless the other party consents, according to the law of contracts. And this occurs in the oath of perseverance, which is given in the venerable congregation of the Most Holy Fathers of the Mission of Saint Vincent, as well as in our own small congregation of the Most Holy Redeemer; where the oblates, although principally they promise by oath to persevere in the congregation for the sake of God, nevertheless, because at the same time the congregation obligates itself to them by accepting them, to support and instruct them, and not to dismiss them without a just and grave cause (concerning which, however, the superiors are not bound to give an account to those who are dismissed), therefore, since there is here a contract mutually obligating, the oath cannot be released by anyone other than the congregation itself, or by the Supreme Pontiff, as the supreme lord of ecclesiastical goods. This is evident from the warning of our Holy Father Benedict XIV, or from the bull *Convocatis* issued on November 25, 1749, for the jubilee year of 1750, where § 32 states: "Finally, concerning vows, confessors must abstain from altering them in which the interests of a third party are involved. Wherefore, concerning vows, however simple, whether of perseverance or others, if they are to be released in any congregation or community, and in vows..."

[*Latin ed. p. 369*]

Once the obligation has been accepted by a third party, they should not interfere. Thus, our aforementioned Pope, in the recently published treatise *de jubilæo* by Father Theodorus a Spir. S., in three volumes, published in Rome in the same year, 1750; who, in chapter 11, section 2, number 10, posing the question of whether a vow or oath of perseverance made in congregations by priests or women can be altered by the force of a jubilee, answered negatively, giving this reason: Not because it is reserved, but because it is made in the manner of a burdensome contract, binding both parties. For the Supreme Pontiff never grants the faculty to alter a vow

where the right of others is violated, as stated in *Cum sit*. Nor does it matter that this vow of perseverance is primarily made for the worship of God, secondarily for the service of the congregation; because this does not prevent there from being a contract, binding on both sides, between the one making the vow or oath and the congregation, and therefore, that the right acquired by the congregation would be violated if the vow, without its consent, were altered. From the same reasoning, it follows that a vow made by students of colleges for missions to the infidels, etc., cannot be altered, since the matter concerns the prejudice of a third party, etc. Thus, the aforementioned author. And the same Holy Father, Benedict XIV, in the bull *Inter præteritos* (published on December 3, 1749), section 5, number 66, says: "And that..."

[*Latin ed. p. 370*]

Concerning the exchange of vows in which the matter of a third party is involved, which is forbidden to penitents, Suarez rightly writes in *Ioannis Suarezi, de Religione*, Book 6, Chapter 5, paragraph 7. Regarding vows of perseverance, which some make when entering a certain congregation and which assume the nature of a contract and reciprocal obligations between themselves and the congregation that receives them, penitents cannot be dispensed from these.

256. "Response 2. The power to grant dispensations belongs to all prelates who have jurisdiction in the external forum or a privilege, *Lessius*, Book 2, Chapter 40, paragraph 12; *Sanchez*, Chapter 37, and commentary. Therefore, the following can grant dispensations: I. The Pope with respect to all the faithful in all vows. II. The Bishop with respect to his subjects; however, not the parish priest, because he only has jurisdiction in the internal forum. *Suarez*, *loc. cit.*, Chapter 12. III. Regular prelates who are exempt with respect to their religious and novices: this applies to vows made either in the world or even during the novitiate. *Lessius*, paragraphs 8 and 107; *Sanchez*, Book 9, on Matrimony, Decretum 29; however, this does not apply to prelates who are not exempt, nor to abbesses. (Nor to penitents, nor to vicars of the bishop, unless a special faculty is delegated to them. *Salm.*, Chapter 3, paragraph 84.) *Suarez*, *Lessius*, *loc. cit.* IV. By papal privilege, confessors of mendicant orders, according to the concession and moderation."

[*Latin ed. p. 371*]

"of their superiors, as Lessius notes, d. 13, n. 108."

Question: Whether the Pope can dispense in solemn vows. Regarding clerics, it is well probable that he can dispense in the vow of chastity, since it is sufficiently probable that this vow is, by ecclesiastical law, only attached to the sacred orders. (See book 6, n. 807.) Thus, St. Thomas, 2-2, question 88, article 11, and Salmeron, *de ordinibus*, chapter 6, n. 11, along with others,

argue against Gonet, etc. A greater doubt exists as to whether the Pope can dispense in the vows of religious. Sotus, Silvestri, Aragonez, Turrecremata, etc., deny this, as noted by Salmeron, *de statu religiosorum*, chapter 1, n. 41, because these vows are essentially attached to the religious state by divine law. However, it is more probable and commonly affirmed by St. Thomas in 4th part, 33rd question, article 4, question 1, answer 3, and Salmeron, ibid., n. 42, along with St. Antoninus, Palearius, Suarez, Lessius, Sanchez, Pontius, Cajetan, Lezaun, and Pellican. And although it may seem that St. Thomas revoked this in 2-2, dict. q. 88, article 11, yet Cajetan, ibid., and Salmeron, dict., chapter 1, n. 41, along with Azorín and Basil, not unaptly explain that St. Thomas understood the Pope not to be able to dispense with a monk in such a way that he would be simultaneously married and remain a monk. Furthermore, in the aforementioned passage, he expressly teaches that the Pope can well dispense, provided there is a most urgent reason, namely, for the good of the Church, or of some kingdom or province.

[*Latin ed. p. 372*]

The reason is that it is rightly considered that this power is granted to the pontiff, to whom God has entrusted the governance of the entire Church. It is certain that the Pope can grant dispensations in simple vows, and bishops in those matters not reserved to them. As to the manner in which they can do so, see what is said concerning marriage, book 6, paragraph 1117. It is also certain that all prelates who, by ordinary right, have the power to grant dispensations in vows, can also delegate this power to others, as stated by Salm, on vows, chapter 3, paragraph 83. However, those who have the power to grant dispensations, whether ordinary or delegated, cannot invalidate their own vows, because no one can make a vow under the condition of their own consent, as is certain according to Sanch., Pal., and Croix, book 3, page 1, paragraph 483. Nevertheless, they can certainly grant themselves dispensations, since this is an act of voluntary jurisdiction. Thus, Lessius, book 2, chapter 40, paragraph 116, Croix in the cited passage, and book 1, paragraph 799, with Laym., Suar., Sanch., Bon., Fill., etc., Elbing, paragraph 278, with those who maintain that this is the common opinion against Henno and others. Paragraph 257. The vows of religious can be dispensed by their prelates, even if they were made with the permission of the prelates themselves, and even if the vow is to enter a stricter religious order, if it is more advantageous for the religious to remain in their current order. See Salm, chapter 3, paragraphs 90 and 91. Just as a bishop could, with his subjects, grant a dispensation to enter a stricter religious order.

[*Latin ed. p. 373*]

Having relinquished the essential substance of a religious vow; since no such dispensation can be lawfully granted, as Lessius states in book 2, chap-

ter 40, paragraph 107, and as affirmed by Soto, Sanchez, Aragona, Leander, etc., with Salmeron, chapter 3, paragraph 91. However, the power to grant dispensations can be delegated by these prelates even to a simple tonsured cleric. See Salmeron, chapter 3, paragraph 85. Nevertheless, essential vows, or those attached to them, such as the vow not to eat meat, to renounce dignities, etc., which are often made in certain religious orders, cannot be dispensed with except by the Pope. This is a common opinion, as stated by Salmeron, paragraph 29. Furthermore, the vows of novices, if they are not reserved, can be dispensed with both by the prelates of the religious order and also by the bishops themselves, as taught by Sanchez, Paleario, Bona, Pelliciari, with Salmeron, chapter 3, paragraph 89. Indeed, according to the common Doctors, as stated by Lessius in book 2, chapter 40, paragraph 154, and by Navarrus, Sanchez, Paleario, Tamburrini, and by many others with Salmeron, chapter 3, paragraph 79. All regular confessors can dispense with the vows of any faithful, both within and outside of confession (for it is by no means required that he who has the power dispense within confession); and this is due to various pontifical privileges, as stated by Salmeron, decree 94, and by Elaburius, paragraph 280. The same power is held by legates sent from the side and by nuncios within the province assigned to them; also, by the chapter when the see is vacant, and by abbots holding an episcopal jurisdiction. See Salmeron, paragraph 88.

[*Latin ed. p. 374*]

258. "Responsio 3ª. Omnes superiores ecclesiastici, inferiores pape, possunt dispensare in omnibus votis, exceptis quinque, quae soli pape reservantur, scilicet voto castitatis perpetuae, religionis approbatae, peregrinationis ad limina apostolorum, ad Sanctum Jacobum Compostellæ et ultramarina, sive in Terram Sanctam. Vide Bonaventura, Lessius, Layman, loc. cit." Quanto ai voti riservati, occorrono alcune osservazioni. È da notare 1ª che la facoltà di dispensare in tali casi non è intesa come concessa dal pontefice, a meno che non vi sia una concessione speciale, o almeno generale, attraverso una clausola in cui tale facoltà sia espressamente concessa, come si evince dagli editti. E nel decreto "Si dominici", can. 2, de penitentia et remissione, dove il pontefice ordina che tali voti non siano allentati se non con speciale licenza e certa conoscenza nostra. E nel capitolo "Si episcopus", nello stesso titolo, si dice: "Nella concessione generale non sono incluse cose che nessuno concederebbe verosimilmente." E questo è comune. Vedi Salm, cap. 3, n. 116. Se, tuttavia, viene concessa la facoltà di dispensare, questa si estende a tutto, a meno che non sia escluso un determinato voto. Suarez, Palotti, ecc., con Salm, ibidem. È da notare 2ª che vescovi e coloro che hanno simile giurisdizione possono legittimamente dispensare nei voti riservati in urgente necessità, ad esempio, se non sia facile l'accesso al papa e se vi sia il pericolo di un grave danno, sia esso materiale o spirituale, come

la violazione di un voto, o uno scandalo.

[*Latin ed. p. 375*]

Either through disputes, or through another sin, or through the danger of a temporary impediment, either to oneself or to another, namely, a grave infamy for a woman, and similar cases. Thus, Lessius, *lib. 2, cap. 40, n. 126 and 127; Sanchez, *lib. 4, cap. 4, n. 44; and Layman, Barbatus, Suarez, Palearius, Silvestrius, Tamini, and others, with Salmeron, *cap. 3, n. 96. Whether, in such a case, confessors also can grant a dispensation in these vows. Commonly, Tamini, Croix, Sanchez, and Sporer, etc., deny this; but Elbing, n. 279, with Anacleto, Henricus, Bassus, etc., considers it probable that they can; because bishops then dispense according to true and ordinary law, as Lessius very probably teaches, *ibid.*, with Navarrius, Silvestrius, and Sotus, *V. dicenda, lib. 6, de matrim., n. 1129, vide infra*. The objection is raised. Note here that the aforementioned apply when a reserved vow is dispensed, such as the vow of chastity for contracting marriage; then, it is required that there be a danger in the delay, and that there is no easy recourse to the Pope. For if the marriage has already been contracted, even without such a danger, bishops, as well as confessors, can dispense in the vow of chastity for requesting the debt. See *de matr., lib. 6, n. 989, 990, and 1129*. It must be noted that the aforementioned faculty, which is probably granted to bishops and to others to whom the power to dispense in reserved vows has been delegated, in urgent necessity as mentioned above, is not granted.

[*Latin ed. p. 376*]

Confessors during the Jubilee year possess the faculty, granted by the Pope, of dispensing from simple vows; for that which is granted to bishops, due to their ordinary power, is not granted to confessors during the Jubilee. Thus, the Reverend Father Theodorus a Sancto Spiritu rightly states in *De Jubilæo*, chapter 11, section 2, number 21. It must also be noted that the aforementioned dispensation is not to be granted unless necessity compels it; therefore, if merely suspending the vow is sufficient, it cannot be dispensed; likewise, if a dispensation is granted with a strict vow of chastity, so that one may marry in order to restore her honor, that person cannot marry another. Sanchez, number 40, and Salm, *in fine* with Laym., Suar., Pal., Tamb., etc. Note also the following: 3rdly, the aforementioned vows are by no means reserved. 1stly, if they are made under a light obligation, as Sanchez, *de cap.* 4, chapter 40, number 47, and Salm, *dict.* chapter 3, number 103, state, along with Pal., Trull., etc. 2ndly, if they are made out of fear, even a slight fear instilled by another, because then they are not made with full freedom. Salm, *ibid.* with Tamb., Bas., and Leand., etc. 3rdly, if the vow is not perfect in its matter; and therefore, a vow not to marry, not to commit fornication, not to demand debts, nor to observe virginity,

is not reserved, if the intention is merely to preserve that state (unless it is an abstinence from all venereal acts); nor is a vow of chastity for a certain time reserved. Nor is a vow to make a vow of chastity reserved.

[*Latin ed. p. 377*]

Concerning the vows of religion, or the reception of the sacred orders; for it is not a vow of chastity that has been made, but one that is to be fulfilled. Thus Laym., Suar., Pal., Prad. etc., with Salm. n. 104. Nor is it a vow to observe conjugal chastity. Salm. ibid., with Sanch., Trull. etc. 4.º Furthermore, it is not a reserved vow of a religion that is not approved; nor is it a vow of pilgrimage to Rome, etc., if it has not been made solely for the sake of devotion and to those specific places; therefore, if someone vows to go to Rome to visit the image of Saint Mary Major, etc., the vow is not reserved. Sanch. ibid. n. 77, and Pal., Fag. etc., with Salm. n. 105. 5.º Although the vows are reserved, the circumstances of the vows themselves are not necessarily reserved, such as pilgrimage, begging, or entering a stricter religious order; for the bishop can grant a dispensation so that he may enter a less strict order: likewise, if the vow is to enter immediately, the bishop can, with a reason, grant a dispensation to postpone the entrance. Sanch. n. 74, and Pal., Tamb., Bas. etc., with Salm. n. 106. 6.º Nor is a disjunctive vow reserved, such as religion or fasting, at least if he does not choose the reserved part, as Sanch. n. 46, Less. n. 124, and Pal., Laym. etc., with Salm. n. 107. It is doubtful whether it is reserved if the reserved part has already been chosen. Sanch., Pal. etc., affirm this. But it is probable that Salm. ibid., with Leand., Tamb. and many others, deny it, according to the aforementioned statements n. 224. This is questioned here.

[*Latin ed. p. 378*]

Now, concerning whether a bishop can dispense a vow of chastity made by a spouse after marriage has been contracted, see what is said about marriage, book 6, paragraphs 98g and 990, where it is probable, with Sanchez and others, that he can, whether the vow was made before or after the marriage. And it is said that confessors of the mendicant orders can also do so, ibid., paragraph 1129. But several questions remain to be resolved. 259. Question 1. Whether a vow of chastity or a religious vow is reserved in the same way. Three opinions exist. The first opinion affirms, with Lessius, Fillippo, Layman, and Azor, in Viva de jub., question 12, paragraph 12, that since the two are equal, a provision made for one is also considered to apply to the other, according to the canon "Postquam, de elect." in 6. But this reason does not seem sufficiently firm: for the Doctors commonly teach that the bond of a vow, which obligates by fidelity and reverence towards God, is greater than the bond of an oath, which obligates only by reverence, as St. Thomas teaches, 2-2, question 80, article 8; and therefore, such oaths are not usually reserved for prelates, as Viva says in the aforementioned

passage, and as Dian, page 4, treatise 4, reason 69, and others say. The second opinion, with Sanchez, de matrim., book 8, title 13, paragraph 4, Soto, Cajetan, Azor, Valois, and Salm, chapter 3, paragraph 108, and others, distinguishes: if the oath includes a vow or a binding promise made to God, it is considered reserved;

[*Latin ed. p. 379*]

Otherwise, if it does not include [a vow]. But this opinion does not even seem to be fitting; for when two bonds are supposed to be present in such an oath, namely, the bond of the oath and the bond of the vow, then it must be said that the vow is reserved, but not the oath. Therefore, the third opinion, which agrees with Viva and Diana, *loc. cit.*, with the Council of Trent, Tamb., Led., Pell., etc., which is called probable by Spor. in *De II. præc.*, chapter 3, number 97, with Tamb., speaks more appropriately and holds that such an oath is in no way reserved, and if, perhaps, a vow is included in it, then indeed the vow will be reserved, but not the oath. And I believe that Sanchez, *loc. cit.*, has truly understood this. But there is a great doubt as to whether a vow is ever to be considered included or not in such an oath. Sanchez, in his *dictiones*, book number 4, and Diana and Viva, in the places cited above, believe that a vow is most often included in such an oath; and Sanchez says, especially when the matter concerns divine honor. However, he admits that such an oath can be given without a vow when someone is induced to swear by some human motive, for example, if, through loss of office or out of anger towards relatives, he swears to religion. But, speaking properly, I believe that one who swears in this way intends to obligate himself to religion with a double bond, namely, with the bond of a vow or obligatory promise, under the grave and greater bond of an oath; then it is permissible.

[*Latin ed. p. 380*]

He who is dispensed from an oath remains bound by the vow. But if he intends to bind himself only by the bond of the oath, so that he makes a vow of religion not to strengthen his promise by another bond, but to strengthen his bare intention or promise, which is not binding upon himself, then he is bound only by the grave obligation of the oath, from which obligation he is entirely freed by a dispensation from the oath; because then he has bound himself to God, not as a debtor whose promise is accepted, but as a witness demanding the truth of his testimony in the matter promised, or intended; as Sanch. rightly says in *dictis*, n. 4, with Lop. and Valent. However, if there is doubt whether such a vow or promise is binding, the common rule is that a vow doubtfully made does not bind. See Bus. *de consc.*, lib. 1, n. 75, 260. *Quaer.* 2. *o*, whether, with a changed vow, the substituted matter is also substituted. Azor. and others, apud Leand., affirm; because then the same bond of the vow is transferred to that. But generally and

more probably, Less. *lib.* 1, cap. 40, n. 124, Sanch. *dec.*, *lib.* 4, c. 40, n. 46, and Suar., Laym., Pal., Tamb., Bus. etc., with Salm. c. 3, n. 109, deny. The reason is, because although the substituted matter has the same bond of the vow, since it is not reserved, it does not at all draw the reservation with it, which was only attached to the first matter.

[*Latin ed. p. 381*]

Question 3: Whether a conditional vow of chastity, etc., is reserved.

It should be noted that, firstly, if the condition pertains to the past or present, the vow certainly remains reserved; because in such a case, it is not truly a conditional vow, but an absolute one, since the condition does not suspend the obligation. See Salm. de matrim. cap. 7, no. 1. The same is to be said if the condition pertains to a necessary future event, which is understood as not being attached; or even to a contingent future event, which is common, for example, "If I live," "If I am able," etc. The same applies if the condition is added with the intention of suspending not the obligation, but the execution of the vow, for example, "I vow to enter religion, if I reach the age of twenty, if I complete my studies." See Salm. de voto, cap. 2, no. 38.

It should be noted secondly, that certainly, if the condition has not yet been fulfilled, the vow can be dispensed by anyone having ordinary jurisdiction; because the reservation is understood to pertain to a completed obligation. This is in common with Salm. de voto, cap. 3, no. 3.

261. There is a great doubt as to whether a conditional vow concerning the future, with a condition already fulfilled, is reserved. There are three probable opinions. The first affirms that, whether the vow is conditional or penal; because, once the condition is verified, the vow is perfected and becomes absolute; as if it had been emitted at that time. Thus, Sot., Azor., Cov., and in Salm. d., cap. 3, no. 113. The second opinion...

[*Latin ed. p. 382*]

It is indeed the case that a conditional vow is reserved, but not a penal vow, because a penal vow does not arise from an affection for religion or chastity, but rather from a dread of them, when it is promised as a punishment. Thus, Lessius, *lib. 2, cap. 40, n. 132*, and Layman, Suarez, Bona, and Salmeron, *ibid.* The third opinion, however, is highly probable, as held by Sanchez, *dec. lib. 4, cap. 40, n. 93*, Croix, *lib. 3, p. 1, n. 545 and 546*, Salmeron, *ibid., n. 114 and 115*, along with Tollet, Trullen, Prado, Ledo, Dian, and many others, and Elbing, *n. 286*. This opinion is called "most probable" by Palafox, Fillon, Sporer, and March. It teaches that all vows, whether conditional or penal, are not reserved; the reason being that a vow, in order to be reserved (as all authors, even those of the second opinion, seem to admit), must proceed from a perfect and singular affection for the thing promised; thus, reservation is to be understood. But a penal vow

is not of this nature, as is evident; nor is a conditional vow, where the condition is preferred to the thing promised; and therefore, the principal affection is more towards the condition. Therefore, although, when the condition is fulfilled, the obligation may become absolute, the vow, since it proceeds from an imperfect affection, is not reserved. However, it must be said differently, as a certain modern writer aptly states (Father Theodor, *in tract. de jubil., cap. 11, §. 2, n. 9*), if someone were to vow religion with a condition, v.

[*Latin ed. p. 383*]

"If the mother has died; because then the vow is rather absolute, although, during the mother's life, it does not obligate to its execution: for the particle 'si' is not infrequently equivalent to the particle 'quando'."

"However, whether foreigners can be dispensed by the local bishop from vows and oaths is more likely to be denied, as Sanchez de Matrimonio, book 3, chapter 25, paragraphs 12 and 13, and Salm. de leg., chapter 3, paragraph 55, and others commonly state against Pont., Pal., and Joseph de Januar., unless they intend to remain there for a significant portion of the year." "See, however, what we have said extensively on this question in book 1, chapter 123. And see also the remarks in paragraph 232 at the end."

"But, whether, as Suarez, Pont., Salm., Pal., Sanchez, Salm., etc., state, foreigners truly become subjects of the superior authority of the place where they are, even if they reside there for a short time."

END OF THE THIRD VOLUME.

[*Latin ed. p. 385*]

INDEX OF THOSE THINGS CONTAINED IN THE THIRD VOLUME.

THIRD BOOK, CONCERNING THE PRECEPTS OF THE DECALOGUE AND THE CHURCH.

TREATISE FIRST. Concerning the first precept of the Decalogue. Page 5.

Chapter I. Concerning superstition and its species. . . . 7

II. Concerning irreligion and its species. . . . 44

TREATISE SECOND. Concerning the second precept of the Decalogue. . . . 149

Chapter I. What and how much is blasphemy? Ibid.

II. What is an oath? . . . 204

Appendix concerning adjuration. . . . 273

III. Concerning a vow. . . . 278